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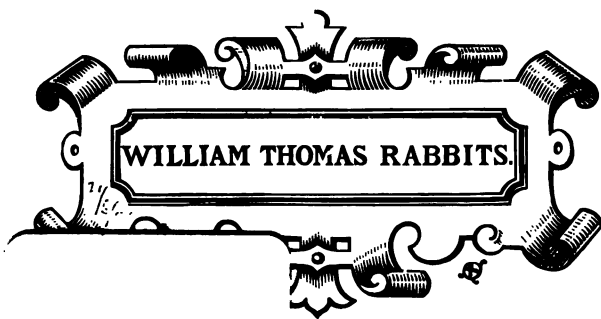
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*Thos. Brigham*









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# Critical E S S A Y

## CONCERNING

# MARRIAGE.

S H E W I N G,

- |  |  |
|--|--|
| I. The Preference of Marriage to a single Life.                                      | VI. The Reasons of prohibiting Marriage within certain Degrees.  |
| II. The Arguments for and against a Plurality of Wives and Concubines.               | VII. The Manner of contracting Espousals, and what Engagements and Promises of Marriage are binding.                                       |
| III. The Authority of Parents and Governors, in regulating or restraining Marriages. | VIII. The Penalties incurred by forcible and clandestine Marriages, and the Consequences attending Marriages solemnized by the Dissenters. |
| IV. The Power of Husbands, and the Privileges of Wives.                              |  |
| V. The Nature of Divorce, and in what Cases it is allowable.                         |  |

To which is added,

An Historical Account of the MARRIAGE RITES and CEREMONIES of the *Greeks* and *Romans*, and our *Saxon* Ancestors, and of most Nations of the World at this Day.

By a GENTLEMAN.

L O N D O N :

Printed for CHARLES RIVINGTON at the  
*Bible and Crown* in *St. Paul's Church-Yard*.

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TO THE  
*English* LADIES  
AND  
GENTLEMEN.



*THESE* general Dedications,  
or Prefaces, though little Be-  
nefit can accrue to the Com-  
poser, have this material Advantage  
however, of those that are more par-  
ticular; that they are seldom stuffed  
with Flattery and impotent Endeavours,  
to advance some silly Mortal above the  
Level of his fellow Creatures.

## DEDICATION.

*Here he is under no Temptation of attributing divine Perfections to some senseless piece of Pageantry; and then call upon the World about him, to fall down and worship it, as is frequent in Addresses of the other Kind; while no more is meant than to cajole the little Animal, whose Name he uses, and coaks him out of his superfluous Coin.*

*And so natural is it for one whom Fortune has placed a little above his Neighbours, to imagine that he excels them no less in the Endowments of his Mind; to believe that Heaven has done but Justice to his superior Talents, in thus advancing him above the Vulgar; that an Author is at very little Pains to persuade his Patron, he is really allied to the Gods; Even the great Alexander discovered his Weakness in this Particular, and gave all Encouragement to those who paid him divine Honours: Nor would others, who fall infinitely*

## DEDICATION.

*finitely short of that great Man, scruple as positively to demand this Incense, if they were clothed with equal Power. To such as these, how can a servile Dependant better recommend himself, than by thus applying to their Vanity? What if there be nothing else but a little ill gotten Wealth, or a fantastick Title, to distinguish the Man from the Croud, his Vanity may be as predominant, and his Thirst of Adoration equal to that of Alexander's; and there never will want Men of Parts and Education, who will prostitute their Pens, to gratify the Ambition of these wou'd be Gods.*

*Where such Addresses are made to a Gentleman, whose Merit is in any Degree answerable to his Quality, his Character is oftner depreciated than advanced, by an Enumeration of his Titles or Virtues: The malicious World will imagine him pleased with the ful-*



## DEDICATION.

*some Recital, especially if any Encouragement be given to the Author.*

*To avoid, therefore, bringing an Imputation upon any particular Person, to whom I might dedicate this Essay, under a Pretence of doing Justice to his Merit, and to save my self a very ungrateful Task; I have chosen to present it to the LADIES and GENTLEMEN in general, for whose Use it was designed; and as the Ladies, by the Courtesy of England, are entitled to the Hand in Publick; and the Design of these Papers is principally to shew, how aptly they are formed, to give us all that Joy that Heaven first proposed in their Creation, and vindicate them from the Aspersions that are thrown on them by the looser World, and made a Pretence for not entering into the married State, I first apply my self to them; not that I apprehend the Gentlemen will deny their Countenance to an Undertaking*

## DEDICATION.

*ing equally designed to promote their Happiness, by removing those Prejudices they seem to entertain to that Sex, who were intended to be the Comfort and Solace of our Lives. Factions and Parties are always of pernicious Consequence: But when one half of the human Species shall combine against the other: When Gentlemen shall be taught, that Women are altogether unqualified for Friendship, and incapable of yielding us any solid Joy: That there is something in their Composition so irreconcilable, so disagreeable to ours, that nothing but endless Fairs will probably attend an intimate Union with them: And the Ladies have imbibed Notions no less disadvantageous to our Sex: An Attempt to reconcile the Male and Female World, and give them more favourable Thoughts of one another, will, it is presumed, meet with a general Indulgence. It is said, in-*

## DEDICATION.

*deed, the Devil never gets such an Advantage of a Man, as when he puts it into his Head to write, especially upon so critical a Subject; but whatever Advantages the Devil, or the World may propose, or however a Writer may lay himself open to Censure, all this may possibly turn to his Advantage. These publick Admonitions, it is true, are usually the Result of Malice, or an impatient Itch of shining at the Expence of another: But if they tend to resolve our Doubts, and illustrate the Subject we are upon, what Reason have we to be angry? Every one does, or ought to aim at Truth, and what way more likely to discover it, than by communicating our Thoughts to others, and allowing them free Liberty of discanting upon them? Who would be content to remain in Error? Were it not better to receive Instruction, even in the rough Dialect of Billingsgate, than die in*  
our

## DEDICATION.

*our Mistakes? Shall we grudge any Man the Honour of the Conquest, that carries Conviction in his Arguments? Surely, we ought to look upon such a one as a Friend, rather than an Enemy: Indeed it is very natural, to desire to be used with Humanity; and it must be acknowledged, that hard Names are a little grating, tho' they seldom convince, or make one Proselite: And yet I know not how it comes to pass, Men of Learning, and even the Fathers of the most pacifick good natured Religion in the World, whose Meekness and extended Benevolence should distinguish them from the rest of Mankind, are too often apt to brand their Opponents with odious Epithets, when other Arguments are wanting. They dress the Man they would expose in some ludicrous or dreadful Garb, and then set the Rabble upon his Back to run him down: But I flatter my self, I*

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Spall

## DEDICATION.

*shall not be so unhappy to incur their Indignation, however I may seem to contradict some favourite Opinions. The Church of Rome, indeed, allows her Votaries to examine nothing, but to believe as the Church believes, on pain of Damnation; but we are thought to breathe a freer Air, and to have some Use of our Reason, after we are initiated into our Religion: That we are at Liberty to examine the Grounds of those Opinions that have obtained in the World, when they seem apparently repugnant to the sacred Writings. For the purpose: When our Saviour says, Whoever puts away his Wife and marries another, unless in Case of Fornication, committeth Adultery: And the Canonists declare, That he that puts her away, even for Fornication, and marries another, commits Adultery: A Man may, without the Imputation of being too assuming, examine into  
the*

## DEDICATION.

*the Reason of this seeming Contradiction; especially when we have seen national Synods, as well as the supream Civil Powers, differ with the Canonists in this Point. There is such a Thing as a Medium to be observed; we may pay a suitable Respect to Authority, without resigning up our Understanding entirely to it. It is held indeed by some, that Ignorance is the Mother of Devotion; and many Things are, no doubt, concealed from the Vulgar with a pious Intent; but what is that Virtue or Religion worth, that has its Foundation in Ignorance; and how egregiously are those poor Creatures imposed upon, by those who have an Interest to serve upon them? It is the Glory of our Religion, that it can bear the Test of the nicest Enquiries, and does not expect an implicit Submission: It allows, and even encourages us to examin Opinions, how specious and popular soever, where it*

## D E D I C A T I O N.

*is done with Modesty, and a Desire of being informed; which encourages our Writers to communicate their Thoughts with a Freedom that is not known in Countries where the Inquisition reigns.*

*But to proceed to give an Account of some of the principal Heads of this Treatise: Having weighed the Arguments for and against a married Life, in order to make the Undertaking of more general Use, I have considered almost every other Head that has any Relation to Marriage: As whether one or more Wives or Husbands be most equitable or eligible: In what Cases Divorces is allowable, and whether the Parties divorced ought to be at Liberty to marry again; and the Reason of prohibiting Marriage within certain Degrees. The Arguments on each Side are collected from some of the greatest Writers on these Subjects, whose Names are frequently mentioned in the Body of this*  
*Work;*

## DEDICATION.

ork; and sometimes I have taken  
eir own Words, particularly Mr.  
ilton's, where the Images are so  
ong, and the Colours so beautiful, that  
ey will not admit of an Alteration to  
advantage. And I have also inquired  
to the Nature and Obligation of Mar-  
riage Contracts and Promises; when  
ey amount to present Marriage, and  
hen they extend only to future Mar-  
riage: A Knowledge, of all others, the  
ost necessary for young Ladies and  
entlemen, being of the greatest Im-  
rtance, and of the most universal  
ncern; and yet nothing is so little at-  
nded to. The general Notion seems  
be, that no Promises, no Engage-  
ments whatever, among Lovers, are  
inding either in Law or Conscience,  
ut those that are made in a Church,  
nd ratified by the Priest: No Manner  
f Difference is made between the Con-  
ract and the Solemnization, or Pub-  
lication



## DEDICATION.

lication of it; or rather, the Ceremony at the Celebration is taken for the Substance, for the very Contract it self; which is usually, if not always, concluded before the Parties enter the Church Doors. It is true, the Words of the Contract are repeated at the Solemnization, tho' they have been never so often repeated in private before; but this can be for no other End, than to apprise the World of the Agreement, that neither of the Parties may have it in their Power to retract, or deceive the other. So in every other Contract, the Parties meet and conclude the Bargain between themselves; but to prevent all Fraud, Writings are ordered to testify the Agreement, and there is the Solemnity of signing and sealing, &c. But it must be admitted, that the Contract is as binding in Conscience before that Solemnity, as afterwards; and it is observable in all our Conveyances and Contracts,

## DEDICATION.

*Contracts, that they run both in the preterperfect and present Tense, viz. That such a one hath granted and agreed, &c. and that he doth thereby grant and agree, &c. Now if the Party had before granted and agreed, &c. as is recited, it seems a little of the latest to say, he does now grant and agree, &c. But the Meaning of it seems to be no more than this, that whereas the Parties have made such an Agreement in private, or before some particular Friends, they publish it to the World, that it may not be in the Power of either of them to recede from it; and thus, where a Man and a Woman do, even in a Parlour, take one another for Husband and Wife, in Words of present Time, they are not only so in Conscience, but the Law has that Regard to the Contract, if it can be proved, that if either of the Parties marry elsewhere, and have Children, the Issue of*

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## DEDICATION.

*the latter Marriage are accounted Bachelards, and either Party may be compelled to return to his or her former Spouse; and if there be no Evidence of it, the Obligation is nevertheless the same in Conscience. And where the Contract or Promise only relates to future Marriage, the Ecclesiastical Courts will compel the Performance of it, or Damages may be recovered at Common Law, for the Breach of such a Promise; and yet what is so common, what more boasted of than the falsifying our Vows of this Kind, and deluding innocent Virgins, by the most solemn Oaths and Imprecations? This is looked upon as so necessary a piece of Gallantry by some, that without it they think they can no more arrive at the Character of a fine Gentleman, than one who has never killed his Man. But if it be true, as I see no manner of Reason to doubt, that the first Contract, how private so-*  
ever;

## DEDICATION.

*ever, ought to stand, and all future Contracts, tho' attended with the greatest Solemnity, are absolutely void: How many Families of Figure in the World will be found to live in a most criminal Commerce all their Lives, and their Children come under the Denomination of Bastards? A Reflection, methinks, that should have some Influence on us, when the Ruin of the deluded Fair can't move us.*

*Having run thro' the several Kinds of Marriage Contracts, whether between present or absent Parties, whether transacted in Person or by Proxy, by Letters or Messages; I have, lastly, given an Historical Account of the RITES and CEREMONIES observed at the Nuptials of the antient Greeks and Romans, and of the English Saxons, with those observed in most Nations of the World at this Day.*

## DEDICATION.

*And upon a Review of the whole; however the Work may want some Embellishments; I have Reason to believe it must be highly useful and entertaining to the young Gentlemen and Ladies, for whom it was designed, and to whose Patronage it is recommended: Must it not excite the Curiosity of every one to enquire how it comes to pass that those extravagant Honours are paid to a State of Coelibacy by the Religious, when Marriage is acknowledged to be the Institution of Heaven, and ordained for so many noble Purposes? To enquire how the want of all Desire or Inclination to propagate our Species, came to obtain the Name of Virtue; will it be unpleasing or unuseful to observe; the exquisite Satisfaction that are to be found in the Marriage of an agreeable Pair; and the Deformity and ill Consequence, that commonly attends an unsatiable roving Lust? Are  
not*

## DEDICATION.

*not most People, with Reason, inquisitive into the Authority of Parents and Governors, in commanding, or restraining and prohibiting Marriage; and into the Power of Husbands, and Privileges of Wives; when, and for what Causes, Divorce is allowable, and if the Parties are at Liberty to marry again? Why Marriages are prohibited within certain Degrees; and whether the Practice of Polygamy and Concubinage are any Breach of the moral Law, or of a positive Command only? These, and other Particulars of the like Nature enumerated before, will sufficiently evince the Usefulness of such a Treatise. Many of the Arguments, 'tis acknowledged, are taken from, and are to be found in other Authors, whose Names are mentioned in this Essay; but they treat upon so many different Subjects, and are so voluminous, that they are not likely to fall into the Hands of*

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## DEDICATION.

*the many, for whom this Work was intended.*

*There will be found also a competent Share of Matter, for which the Author is not indebted to any that have gone before him. How just his Reflections are must be submitted; but as he is ever ready to retract any mistaken Notions, and has not disguised or concealed a Thought with any sinister View: As he neither gives into the superstitious Part of the World, or soothes the Libertine in his Vices: He may, it is presum'd, meet with generous Treatment from the Wise and Virtuous, whose Judgment only ought to be regarded.*





# MARRIAGE

Preferable to a

## SINGLE LIFE.



*AND God said, it is not good that the Man should be alone, I will make him an Help-meet for him.* As God who best knows our Frame, and what will most conduce to our Happiness, has thus plainly pointed out the married State, as the best Expedient to relieve our Solitude, and sweeten the bitter Draught of Life; it is surprizing there should ever arise an Order, or rather numerous Or-

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ders



## 2 MARRIAGE *preferable*

ders of Men, who should place most of their Virtue and Religion in neglecting and contemning the sacred Institution ; looking upon it as too great a Defilement and Pollution of their purer Souls, to obey an Ordinance design'd by Heaven, not only for the Comfort, but Continuance of our Species.

What can this proceed from? Is it from that impious, but vulgar Error, an Error that has prevail'd with the Multitude in almost every Age, and every Nation under Heaven ; namely, that God is pleas'd with the Afflictions and Distresses of his Creatures ; and that he abhors nothing more, than to behold them in perfect Ease and Tranquillity ? Or is it that they find Virtue an exceeding difficult Task, and therefore impose Penances and Hardships on themselves, by way of Composition for their Deviations from it ? Are they sensible they do not act up to the Dictates of that Reason with which God has endow'd them, and therefore would commute with him for their Disobedience ? Or lastly, do they look upon the gratifying those Appetites and Propensions God and Nature has planted in us, as a sinful and abominable Pollution ; as *Rome* does more than insinuate, when she denies Wives to those who minister in holy Things ?

To

To some or all of these, possibly, we may attribute those unnatural Restraints that have been laid upon human Nature, by the Devotees and Bigots of every false Religion.

O wretched Man, whose Pleasure is a Crime!

“ Hast thou not, says *Montaign*, Afflictions  
 “ and Inconveniences enough, that are inevitable, but thou must increase them by thine  
 “ own Invention? Art thou not miserable  
 “ enough by Nature, without being so by  
 “ Art? There are real and essential Calamities enough, without forging those that are  
 “ imaginary. Hast thou perform’d all the Offices that Nature has enjoin’d thee, that  
 “ thou dost oblige thy self to more and new?  
 “ Thou dost not stick to break the universal  
 “ and undoubted Laws, and yet stick’st fast to  
 “ those fantastick ones of thy own devising.  
 “ The Laws of thy Sect or Party bind thee,  
 “ and perhaps those of the Parish where thou  
 “ livest: *Those of the World concern thee not.*

To proceed: That ever Whips, hair Shirts, the cutting and mangling our Flesh, macerating our Bodies, disordering our Minds, and ruining our Health, one of the most substantial Blessings in Nature, by excessive Fasting, and the decaying our selves the innocent Grati-

#### 4 MARRIAGE *preferable*

fication of our Appetites, should be look'd upon as pleasing to the Author of our Being; and the Author of every Appetite and Propension in us, is something very extraordinary.

Again, that Heaven should have ordained but one only Method for the Propagation and Continuance of our Species, nay, and enforced it by a positive Command, and order'd Things so, that a great Part of our Happiness should consist in a Union and intimate Commerce of both Sexes; and when the great Work of Creation was finished, God should deliberately declare, when he review'd every Thing that he had made, (even every Appetite and every Propension,) that *behold it was very good*: After all this, that Virtue and Religion should be made to consist in neglecting the Propagation of our Species, and denying our selves the Gratification of our Senses, even in the most moderate and regular Manner, is altogether unaccountable.

We would be Angels, possibly, before our Time; but let us first perform the Duties of reasonable Men, and then it may be time enough to aspire to the Condition of Angels; and not because there is a Text or two in Scripture, which, according to vulgar Apprehension,

hension, may seem to countenance Coëllbacy, reject others much plainer, and act contrary to the whole Tenor of the sacred Writings. Our Saviour, indeed, says, that *in Heaven there shall be no marrying, or giving in Marriage, but we shall be as the Angels*. Not in all Respects, say our Commentators, but as to Immortality and Incorruptibility, and so shall need no Marriages to perpetuate our Generations.

But whether the Angels themselves have Bodies composed of a more refined and subtil Matter than ours at present; or whether they and we, after the Resurrection, may not be capable of receiving Pleasure by the Mediation of such Bodies, seems not to be determined. Nay, it is difficult to think that our Bodies, which are to be then more exquisitely framed, should be of no Manner of Use or Advantage to us: We may probably be so far like the Angels, as to have the absolute Dominion of our Appetites and Passions; and be endowed with such a Share of Wisdom and Virtue, that we need not be restrained by Contracts and Engagements, or be governed by positive Laws; every Man being so far a Law to himself as to transact all Things with the greatest Reason and Justice. There may be no manner of Occasion

## 6 MARRIAGE *preferable*

for Laws or Contracts, to keep us within the Bounds of our Duty in these blessed Abodes; but whether we shall have all, or any of our Senses; or, whether as many more as we enjoy in this mortal State, does not appear from that or any other Text; all that we know, is that we know not what we shall be then.

Some are pleased to allow us the Sense of Hearing, and some of Seeing, and exclude the rest; but what Danger there can be in allowing us all or any of our Senses, when the Soul shall have the absolute Government of them, and we shall act according to the Dictates of right Reason, I cannot foresee, any more than there was in permitting our first Parents to enjoy them in *Paradise*: Nay, indeed, not so much, if we shall be, as the general Opinion is, out of all Possibility of transgressing again. It is agreed, I think, that whatever our Pleasures shall be, they will be much greater and more durable than any we have experienced here, which is a strong Argument for a married State; for if we may thereby be the Instruments of bringing Creatures unto Being, that shall not only enjoy this Life (that perhaps is no great Boon) but who shall know the most ecstasick Bliss to all Eternity; is not this an Inducement sufficient to balance

balance any temporal Inconvenience? If any Monastick, or Patron of Coelibacy, can propose an End so beneficial, so glorious as this, in a single Life, I shall soon become his Disciple.

If it be indifferent, indeed, whether we do the greatest Good that Man can conceive, then might Marriage be indifferent. The *Romans* and *Grecians*, we see, who had none of those mighty Views of Futurity that we Christians pretend to have, laid unmarried People under Disgrace, and heaped Honours and Privileges upon those that enter'd into that State. What Encouragement then ought Christian Governors to give their Subjects to enter into this State, whereby they shall not only people their own temporary Dominions, but even Heaven it self, that bright Region of Bliss and Immortality? But in fact, Men look upon all that's said of the other World, in the sacred Writings but as the Dreams of Enthusiasts or a *Utopian* Plan; or their Practice would not in this, and every other Instance, so directly contradict their Creed.

But there are some, who pretend to carry so vehement an Antipathy against what they are pleased to denominate *Impurity*, that they will not allow the Women to rise again in the same Sex. Others are for altering every part

of us, and think we shall not retain the least Resemblance of what we are now, either in Form or Substance, but be entirely new Creatures in a literal Sense; because they cannot conceive of what Use any one of our Members can be to us; and all this from the immoderate Detestation of every Thing that has any relation to our Senses. But I would ask these Puritans, how, after such an entire Metamorphosis, we can properly be said to rise with the same Bodies? It need not be asked, I think, whether we shall know our Friends in the next State, for it will not be very easy for us, upon this Supposition, to know our selves; but if these Gentlemen would consider, that our Saviour himself appeared exactly in the same Form after his Resurrection, as he did before, and eat and drank as we Mortals do, or at least seem'd to do so (and my Opponents are at Liberty to take which side of the Question they please) it may be a Means possibly to recover them from their Delusion.

As *Milton* observes, " Marriage for many  
 " Ages lay in Disgrace with the antient Doctors,  
 " as a Work of the Flesh, a Defilement  
 " wholly denied to Priests, and a second time  
 " dissuaded to all." But how comes it to pass,  
 that an Act so natural, so necessary, should  
 be

be looked upon as a Pollution any more than eating and drinking? In these the Excess only is held criminal, then why should the moderate Use of the other be condemned?

To say the Action is brutish, because it is common to Beasts as well as Men; by the same Rule, we ought to refrain from every other Action that is common to us with brute Beasts. Mankind can be no more propagated without the gratifying one Appetite, than be supported without gratifying another; and in some Countries Men are as much ashamed, it seems, of being seen to eat, as they are here to be found in the Act of Generation; but every thing we are ashamed of is not criminal. It may be decent and commendable to do many Things in private, that are not fit to be done in publick; as every Man's Reason will suggest to him from various Motives. In *Paradise*, and in a State of Perfection, there can be no such thing as Shame, because there can be no Mistakes, no Misapprehensions, or Danger of offending or corrupting those about us, because all are supposed to act upon Principles which are the Result of the most consummate Wisdom and Virtue: But here, where even an innocent Action may produce ill Effects in those we converse with, or create  
in



## 10 MARRIAGE *preferable*

in them an Opinion of Levity, or Weakness in our selves, common Prudence will admonish us to retire.

But no Man will infer from hence, that every thing which Custom or Prudence prompts us to conceal, is therefore impure or dishonest. To proceed, the *Jews* were so far from apprehending any thing criminal in Marriage, that in pursuance of the Command to *increase and multiply*, they obliged all their Males to marry before twenty, and many of their Doctors looked upon those who abstained longer as guilty of Murder. By the Laws of *Lycurgus*, old Batchelors had Marks of Infamy set upon them: *Plato* declared them unworthy of any Honour; and the *Romans* gave great Encouragements to enter into the married State.

But, say our Monasticks, “by denying our selves these Gratifications, and devoting our selves to Acts of Piety and Devotion, we may be much more acceptable to the Deity.” And possibly many of them are in earnest; they really think by their voluntary Penances and Mortifications, by shutting themselves up in Cloysters, in order to repeat over a Bead-Roll of Prayers (for to pray and meditate without ceasing, in a literal Sense, is actually impos-

impossible) from one end of the Day to the other, is an Act extremely pleasing to God. That People may be brought to think in this Way, I have seen several Instances even among Protestants, particularly the good old Woman that the Weather had prevented going to Church, who instead of her Prayers read over a whole Chapter of hard Names; and look'd upon it that she had by that Task recommended her self to the Protection of Heaven, as effectually as if she had performed her Devotions in the Manner that other People did; she had punished her self she was sure; and it is a Notion hardly to be rooted out of the common People, that Heaven is pleased with the little Punishments and Penances they lay upon themselves: Even Papists and Presbyterians seem to agree in this, that if any Thing will render the Deity propitious, these will: Though how these things, when seriously examined, should tend to promote the Honour of God, or the Good of Mankind, may be difficult to discover. Does not one Man of sound Principles and honest Conversation, do more Service to Virtue and Religion, and to the World while he remains in it, by his Example, and shewing the Feasibleness of conversing amongst Men with Innocence and Integrity,

## 12 MARRIAGE *preferable*

tegrity, than a dozen cloystered Nuns and Fryars, who have retired out of it to say their Prayers ?

The Monasticks also seem to declare their own Weakness, and that they despair of doing their Duty in the World ; and therefore for their own Ease, and that they may render the Strife between Flesh and Spirit more tolerable, retire out of it ; so that to those that do remain in the World, and acquit themselves well, they plainly resign the Post of Honour : They themselves give the Preference to those great Souls, who can converse with the World, and not be polluted by it.

But they pretend farther, that a Commerce with Women clouds their Understandings, and makes them unfit for Study, or any thing that is great and noble. To resolve this, we must appeal to those who have tried both Conditions, which our Monasticks cannot be supposed to have done ; and this Doctrine, I believe, will then be contradicted by universal Experience, provided we avoid Intemperance and Excess : And admitting there was some present Indisposition, do not our ordinary Meals too often make us less fit for Study for a Time ? But the Man soon revives, and his Mind is much less disordered by the moderate Gratification

of

Of his Appetites, than by suffering himself to be perpetually racked and tortured by a burning importunate Desire, which he has determined never to satisfy in the Way that God and Nature designed.

Nor shall we, from the Observation of those who have denied themselves these Satisfactions, and lived to advanced Years in this unnatural State, be at all induced to follow their Example: Their perpetual Contentions with the Calls and Instincts of Nature, or the denying themselves the Society of the other Sex, generally render them so exceeding peevish and untractable, that they are hardly fit for Society: So offended, so out of Love with the World they seem, (which they would have us believe, proceeds from the impure Liberties Mankind take) and such Enemies to social Life, that they give no small Uneasiness to those they converse with, or depend upon them. The Apostles and primitive Christians indeed, in a State of Persecution, and when their whole Lives were spent in travelling to remote and barbarous Countries, and often destitute of all Conveniences of Life, might have Reasons for not entering into the married State: Nay if they had, it was almost impossible, in that Condition, they should reap the Fruits, or perform

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perform the Conditions of it; but even in these Distresses they were far from prohibiting Marriage to their Followers, confessing that the Calls of Nature were not always to be resisted. And though we should admit a Missionary, who out of Zeal for his Religion should travel to far distant Countries, and live in perpetual Hazards and Distresses, in order to improve Mankind, and acquaint them with the Beauties and Advantages of Religion, to deserve to be enrolled in the Catalogue of Saints or Heroes: If we should applaud the Man who denied himself the Satisfactions he might have indulged to hazard his Life in so glorious an Enterprise; yet why one who lives in Peace in his own Country, and knows no other Distresses than those of his own making, should expect the same Applause for not entering into the married State, is not altogether so intelligible. If it be said that the Cares of a Family make him less capable to serve God, or of doing good in the World, I am really at a Loss to know why; for supposing a Man to have a Fortune to manage, or to be brought up to any Trade or Husbandry, will not the Wife take off abundance of the household Care? Are not his Effects within Doors much safer in her Hands than in a Stranger's or Servants? And must not this

this ease him of many distracting Cares? Suppose him a Gentleman, or a Divine, may he not be much more serviceable to the Neighbourhood he lives in, by his dealing with them, and administering to their Necessities, where he has a Wife and Family, than if he had none? Let the Villagers determine this Point, and tell us, if they had not rather see one Gentleman, or Clergyman, settle amongst them with a Family, than five without: And as to its being any Hindrance to Study and Contemplation, or the Service of God and Man, I take a Family to be rather a Relief, than any Prejudice to either. If we are at some Care and Trouble to provide for a Family, to balance this, we have a mighty Satisfaction in doing it, and we need not go Abroad to find Diversion: The Conversation of a Wife and Children, at our vacant Hours, is a most exquisite Satisfaction; and from these he will return to his Studies again with a Mind perfectly serene and easy. The mutual good Offices and Endearments that are to be seen in a well regulated Family, are a most ravishing Entertainment even to an observing Stranger.

See the kind and undissembled Concern of the Father and Mother for each other's Welfare; see them both busy in contriving their Chil-

Childrens Happiness, and regulating their Conduct. Behold the Children officious to do whatever they think may be grateful to their Parents; the Servants readily and chearfully performing their Duty, in a Sense of their being used with Humanity and Tenderness. See the neighbouring Villagers, in all their Distresses, applying to, and relieved by this hospitable Family, and shew me any thing in a Cloyster, or a single Life, that has so lovely, so beautiful an Aspect.

And are not the Powers and Faculties of our Minds limited? can we perpetually contemplate and keep them upon the stretch? Are not Sleep and Diet, and the sweet Intercourse of Love, by Heaven made necessary to recruit and refresh our wearied Bodies, and exhausted Spirits? Then let us not leave the Road that Nature has trac'd out, and aspiring to be Angels before our Time, render our selves less able to perform the common Offices of Humanity.

But it has been rightly observed, that the World is generally govern'd by Names and Sounds; fix but some odious Epithet upon the Thing or Person you would blacken, and it shall have a quicker Operation than if you had produc'd the most pregnant Proofs: And  
this

this is in no Instance more conspicuous, than in the Case before us. We see these Advocates for a pretended angelick Purity never fail to brand the Appetite and Desire of multiplying our Kind, with the now detested Name of *Lust*; tho' Lust or Desire, taken simply, when it has nothing in it irregular or inordinate, must be allow'd to be extremely innocent: And this very dreadful Word, which Time and Use have rendred so exceeding shocking, signified no more, in the last Age, than bare *Desire*, (however it is now appropriated to the foulest Effect of a disorder'd and irregular Passion;) as we may see by that Text, *He that lusteth to see good Days*, &c. It is the confounding the former and the present Sense of this Word that has led some well meaning People into an Abhorrence of the most harmless, if not the most generous Passion, that ever inspired the Breast of Man: But can any rational Man imagine that Virtue consists in the having no Desires, no Appetites or Passions, as these Persons would insinuate? Does it not rather consist in the regulating and governing our Appetites and Passions, and directing them to their proper Ends, for which Heaven intended them? Where is the Virtue, where the Honour of being destitute of all Desire, of



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every Appetite? We frequently see indeed, *Insensibility* looked upon as the Result of a consummate Virtue. But would the most virtuous Lady really have her Lover believe she has no warm Desires? Or would the Coldness of his Constitution at all recommend him to her Choice, whatever her publick Professions are? If she is indeed thus cool, she would be much fitter for a Cloyster than a married State. But there are several other great Ends in Marriage, besides satisfying this Passion; Do we not propose to find in the Person we fix our Affections on, one who may contribute to lessen and divide our Cares, and make Life sit tolerably easy? Do we not propose the increasing and multiplying our Species, and leaving Sons and Daughters behind us, who may be a Strength and Ornament to our particular Families, and to the Commonwealth we live in? And shall the Desire of Marriage, which conduces to so many, and such noble Purposes, be looked upon only as the Effect of a disordered Lust? This may express the perverse and peevish Tempers of those, who make the ill natured Suggestion, but will be of little Weight with any one of common Sense.

But it is objected farther, that Women are incapable of entertaining any real Friendship:

That

That there is such an Unfuitableness, such a Contrariety in our Natures, that it is not in the Power of Wisdom it self to render the Sexes agreeable to each other long: That instead of proving a Help-meet, a Wife is often a domestick Plague, and so much more to be dreaded than any other Calamity; as she is intimate with all our Concerns, and so fastned to us, that nothing but Death can remove the Evil. Now if we should admit that this is sometimes the Case, yet it does not follow that the Institution of Marriage ought to be blamed, or a general Disagreeableness of the Sexes to each other, inferred from some few such Instances. It is observable, that the best Things, corrupted and abused, often prove the worst; and tho' Marriage, as has been intimated, was certainly designed to relieve our Solitude, and promote our mutual Interests and Happiness; yet if when we are entring upon the greatest Concern of our whole Lives, we will use no Caution, no Deliberation; if Wisdom and Discretion have no Share in the Transaction, what can be expected but endless Broils and Contentions, insuperable Aversion and Antipathy, dark gloomy Prospects of lasting and irrevocable Woe, much worse than even Solitude it self? This, I say, may be expected, where we

forced by parents or voluntary  
marriage and offer: based only on feeling 23

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blindly rush into that State without consulting  
our Reason: If ever Prudence was necessary,  
it is in this grand Concern; proper Enquiries  
must be made, if we would hope for Success;  
as whether the Party has a sincere Affection for  
us, and we for them; whether their Tempers,  
manner of Life and Education are agreeable to  
ours; whether they are likely to perform the  
respective Parts they are to act, the Man in his  
Dealings and Commerce with the World, the  
Woman in the Management of her Concerns  
at home. For as my Lord *Halifax*, in his Ad-  
vice to a Daughter, observes, the Government  
of the House, the Family and Children, is  
the Province allotted to the Wife; and the dis-  
charging it well, will for that Reason be ex-  
pected from her: *If (says he) you either desert it  
out of Laziness, or manage it ill for want of  
Skill, instead of an Help, you will be an In-  
cumbrance to the Family where you are placed.*  
He goes on admirably, which I beg leave to  
transcribe for the Advantage of the Ladies and  
Gentlemen that have not met with it.

“ I must tell you, Madam, says he, that no  
“ Respect is lasting, but that which is produced  
“ by our being in some Degree useful to those  
“ that pay it; where that faileth, the Homage  
“ and the Reverence go along with it, and  
fly

“ fly to others, where something may be ex-  
 “ pected in Exchange for them: And upon  
 “ this Principle, the Respects even of the  
 “ Children and the Servants will not stay with  
 “ one, that doth not think them worthy their  
 “ Care; and the old House-keeper shall make  
 “ a better Figure in the Family, than the Lady  
 “ with all her fine Cloaths, if she wilfully re-  
 “ linquishes her Title to the Government.  
 “ Therefore take heed of carrying your good  
 “ Breeding to such a Height, as to be *good for*  
 “ *nothing and to be proud of it.* Some think  
 “ it hath a great Air to be above troubling their  
 “ Thoughts with such ordinary Things as their  
 “ House and Family; others dare not admit  
 “ Cares, for fear they should hasten Wrinkles.  
 “ Mistaken Pride maketh some think they  
 “ must keep themselves up, and not descend to  
 “ these Duties, which do not seem enough re-  
 “ fined for great Ladies to be employed in; for-  
 “ getting all this while, that it is more than the  
 “ greatest Princes can do, at once to preserve  
 “ Respect, and neglect their Business: *No*  
 “ *Age ever erected Altars to insignificant*  
 “ *Gods.* They had all some Quality applied  
 “ to them, to draw Worship from Mankind;  
 “ this maketh it the more unreasonable, for a  
 “ Lady to expect to be considered, and at the

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“ same time resolve not to deserve it. Good  
 “ Looks alone will not do, they are not such  
 “ a lasting Tenure as to be relied upon; and  
 “ if they should stay longer than they usually  
 “ do, it will by no Means be safe to depend  
 “ upon them; for when Time hath abated  
 “ the Violence of the first Liking, and that the  
 “ Nap is a little worn off, though still a good  
 “ Degree of Kindness may remain, Men  
 “ recover their Sight which before might be  
 “ dazzled, and allow themselves to object, as  
 “ well as to admire: But if a Man will fix up-  
 on a gay fluttering Thing, that has neither  
 Sense to manage her Household Affairs, or  
 to entertain him with her Conversation, he  
 must thank himself for the Consequence.

✓ The famous *Montaign* also assigns Husbwifery  
 as one of the greatest Accomplishments in a  
 Wife; and what is here observed of the Wo-  
 man, with a little Variation, may direct her  
 in the Choice of a Husband.

✓ If he too be guilty of Laziness, or want of  
 Skill to manage his Concerns, instead of a  
 Help, he will probably prove but an Incum-  
 brance; and he also would do very well to re-  
 member, *That no Respect is lasting, but that*  
*which is produced by our being in some De-*  
*gree useful to those who pay it:* The reflecting  
 often

often upon this admirable Sentence, would probably prove one of the best Expedients towards rendring Marriage what it was design'd, a most sweet, delightful State; and it is not that there want Women of Sense and Virtue, capable of being agreeable Companions, even to the wisest; but it is not Virtue and good Sense we aim at; and though in every other Concern of Life we may hope to be assisted by the Advice of our Friends and Relations, in this their Judgment and Experience are so far from being of Use to us, that they, with all their Wisdom, frequently contribute, and even compel us to enter upon certain Ruin. So far are they from considering whether the Parties have any Relish for one another's Conversation, that they give them no Opportunity of making the Experiment; and let the Person be blind, lame, deformed, diseased, sowre, morose, vicious, old, or good for nothing, if there be but Wealth, or they can a little advance their Son or Daughter above the Quality or Condition themselves have lived in, the poor Children must be made a living Sacrifice, and probably know no more happy Days after the Solemnization of their Nuptials. What can be expected from such Matches as these, but the most piercing Sorrows, tho' at-

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tended with a glittering Equipage, and the greatest Flow of Plenty? If a Man is not easy at home, if she that should be a Bosom-Friend proves little better than a Fiend, can the whole World make him an Equivalent?

As those who are thus sacrificed by their Parents ought to be pitied, it being more their Fate than their Fault; yet what shall we say for those who are at their own Disposal, and in easy Circumstances; and barter their Liberty, and surrender their Persons, upon the like vile Motives? Or for those who, smitten with a Shape, or Mein, or the Varnish of a fine Complexion, without considering any other Accomplishments, shall resign their Freedom? Will they charge the Institution with their Misfortunes, or say there was not a deserving Woman to be found, because they blindly and precipitately have thrown themselves away?

No, the Fault is not in the Institution; nor is there such a Dearth of fine Women: We have seen Women whose Affection, whose Constancy and Sense of Honour, has equal'd, if not exceeded, that of the greatest Heroes of our Sex: Who is not acquainted with the History of *Lucretia*, and of *Parcia* the Wife of *Brutus*, and several other *Roman* Heroines? Of whom give me leave to produce one or two Instances.

The

The first shall be that of *Arria*, whose Husband *Cecinna Petus*, having been made Prisoner by some of the Emperor *Claudius* his People, after *Scribonianus* his Defeat, whose Party he had embrac'd in the War, she begg'd of those who were to carry him Prisoner to *Rome*, that they would take her into their Ship, where she should be much less Charge and Trouble to them, she said, than a great many Persons they must otherwise have to attend her Husband; and that she alone would undertake to serve him in his Chamber, his Kitchen, and all other Offices. But they refus'd her. Whereupon she put her self into a Fisher-Boat she hir'd on a sudden, and in that manner from *Sclavania* followed him. Being come to *Rome*, *Junia*, the Widow of *Scribonianus*, one Day, for the Resemblance of their Fortunes, accosting her in the Emperor's Presence, she rudely repuls'd her with these Words, *I, said she, speak to thee? or give ear to any thing thou sayst? To thee in whose Lap Scribonianus was slain, and thou art yet alive?* These Words, and several other such Intimations, gave her Friends to understand that she would undoubtedly dispatch her self, impatient of supporting her Husband's Fortune: And *Thrasea* her Son-in-law beseech-  
ing



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ing her not to throw away her self, and saying to her, *What if I should run the same Fortune that Cecinna has done, would you that your Daughter, my Wife, should do the same? Would I?* reply'd she, *yes, yes, I would, if she had liv'd as long and in as good Intelligence with thee, as I have done with my Husband.* These Answers made them more careful of her, and to have a more watchful Eye to her Deportment. One Day having said to those that look'd to her, *'Tis to much Purpose that you take all this Pains to prevent me, you may indeed make me to die an ill Death, but to keep me from dying is not in your Power;* she on a sudden furiously started from a Chair wherein she sat, and with all her Force ran her Head against the Wall; by which Blow being laid flat in a Swoon, and very much wounded, after they had again with much ado brought her to her self, *I told you,* said she, *that if you refus'd me some easy Way of dying, I should find out another, how painful soever.* The Conclusion of so admirable a Virtue was thus; her Husband *Petrus* not having Resolution enough of his own to dispatch himself, as he was by the Emperor's Cruelty enjoin'd, one Day, amongst others, after having first employ'd all the Reasons and Exhor-

Exhortations which she thought most prevalent to persuade him to it, she snatch'd the poniard he wore from his Side, and holding it ready in her Hand, for the Conclusion of her Admonitions, *Do thus*, Petus, said she; and in the same Instant giving her self a mortal Stab in the Breast, and then drawing it out of the Wound, presented it to him; ending her Life with this noble, generous and immortal Saying, *Pete, non dolet*, Petus, *it hurts not*; having Strength to pronounce no more but those three never to be forgotten Words.

*Castra suo gladium cum tradaret Arria Pete,  
Quem de visceribus traxerat ipso suis;  
Si qua fides, vulnus, quod feci, non dolet, inquit,  
Sed quod tu facies, id mihi Pete dolet.*

When the chaste *Arria* gave the reeking Brand  
That had new goar'd her Heart, to *Petus*' Hand,  
*Petus, the Wound I've made hurts not*, quoth she,  
*But the Wound thou wilt make, 'tis that hurts me.*

The Action was much more noble in it self, and of a braver Sense, than the Poet could express it; for she was so far from being deterr'd by the Cruelty of her Husband's Wound and Death, and her own, that she had been the Pro-

Promotress, and had given the Advice. But having perform'd this high and couragious Enterprize for her Husband's only Convenience, she had, even in the last Gasp of her Life, no other Concern but for him, and of dispossessing him of the Fear of dying with her. *Petrus* presently struck himself to the Heart with the same Weapon; ashamed, I believe, to have stood in need of so dear and precious an Example.

The next Instance I shall produce, is that of *Pompeia Paulina*, a young and very noble *Roman* Lady, who had married *Seneca* in his extreme old Age. *Nero*, his fine Pupil, sent his Guards to him, to denounce the Sentence of Death; which was perform'd after this Manner: When the *Roman* Emperors of those Times had condemn'd any Man of Quality, they sent to him by their Officers, to chuse what Death he would, and to execute it within such or such a Time; which was limited according to the Mettle of their Indignation, to a shorter or a longer Respite, that they might therein have better Leisure to dispose their Affairs; and sometimes depriving them of the Means of doing it, by the shortness of the Time. And if the condemn'd seem'd unwilling to submit to the Order, they had

People

People ready at hand to execute it, by cutting the Veins of the Arms and Legs, or by compelling them by Force to swallow a Draught of Poison. But Persons of Honour would not stay to this Extremity, but made Use of their own Physicians and Chirurgeons. For this Purpose *Seneca* with a calm and steady Countenance heard the Charge, and presently call'd for Paper to write his Will; which being by the Captain deny'd, he turn'd himself towards his Friends, saying to them, *Since I cannot leave you any other Acknowledgment of the Obligation I have to you, I leave you, at least, the best Thing I have, namely, the Image of my Life and Manners, which I intreat you to keep, in Memory of me, that so doing you may acquire the Glory of sincere and real Friends.* And therewithal one while appeasing the Sorrow he saw them in, with gentle Words, and presently raising his Voice to reprove them, *What, said he, are become of all our brave philosophical Precepts? What are become of all the Provisions we have so many Years laid up against the Accidents of Fortune? Is Nero's Cruelty unknown to us? What could we expect from him who had murthered his Mother, and his Brother, but that he should put his Governor*

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*to Death, who had nourish'd and bred him?* After having spoke these Words in general, he turn'd himself towards his Wife, and embracing her fast in his Arms, as her Heart and Strength failing her she was ready to sink down with Grief, he begg'd of her, for his sake, to bear this Accident with a little more Patience, telling her, that now the Hour was come, wherein he was to shew, not by Argument and Discourse, but by Practice, the Fruit he had acquired by his Studies, and that he really embraced his Death, not only without Grief, but with exceeding Joy; *Wherefore, my dearest, said he, do not dishonour it with thy Tears, that it may not seem as if thou lovedst thy self more than my Reputation; moderate thy Grief, and comfort thy self in the Knowledge thou hast had of me, and of my Actions, leading the Remainder of thy Life in the same virtuous Manner thou hast hitherto done; To which Paulina, having a little recovered her Spirits, and warmed her Magnanimity with the Heat of a most generous Affection, reply'd, No, Seneca, I am not a Woman to suffer you to go alone; I would not have you to think that the virtuous Examples of your Life have not yet taught me how to die; and when can I ever better or more decently do it,*  
or

*or more to my own Desire, than with you? And therefore assure your self I will go along with you.* Seneca then taking this noble and generous Resolution of his Wife's exceeding kindly at her Hands, and also willing to free himself from the Fear of leaving her expos'd to the Mercy and Cruelty of his Enemies after his Death; *I have, Paulina, said he, sufficiently instructed thee in what would serve thee happily to live, but thou more covetest, I see, the Honour of dying: In truth I will not grudge it thee; the Constancy and Resolution in our common End are the same, but the Beauty and Glory of thy Part is much greater.* Which being said, the Chirurgeons at the same Time opened the Veins of both their Arms, but those of Seneca being more shrunk up, as well with Age as Abstinence, made his Blood to flow too slowly; whereupon he commanded them to open the Veins of his Thighs, and lest the Torments he endured might terrify his Wife, and also to free himself from the Affliction of seeing her in so sad a Condition, after having taken a very affectionate Leave of her, he entreated she would suffer them to carry her into her Chamber, which they accordingly did; but all these Incisions being not yet enough to make him die, he commanded

Statius

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*Staius Anneus*, his Physician, to give him a Draught of Poison, which had not much better Effect; for by reason of the Weakness and Coldness of his Limbs, it could not arrive to his Heart; wherefore they were forced to superadd a very hot Bath, and then feeling his End approach, whilst he had Breath he continued excellent Discourses upon the Subject of his present Condition; which the Secretaries writ down, so long as they could hear his Voice; and his last Words were long after in high Honour and Esteem amongst Men, and it was a great Loss to us, that they were not reserv'd down to our Times. Then feeling the last Pangs of Death, with the bloody Water of the Bath he bath'd his Head, saying, *This Water I dedicate to Jupiter, the Deliverer*. Nero being presently advertis'd of all this, fearing lest the Death of *Paulina*, who was one of the best descended Ladies in *Rome*, and against whom he had no particular Unkindness, should turn to his Reproach, he sent back Orders in all Haste to bind up her Wounds, which her Attendants, without his Knowledge, had done before, she being already half dead, and without all manner of Sense. Thus, tho' she liv'd contrary to her own Design, it was very honourably, and according to her own Virtue; her

her pale Complexion ever after, manifesting how much Life was run from her Veins.

But it will be said, tho' there may be some such Instances as these, yet the Generality of Women are not such : Every Man must not expect to have one of these fall to his Share. To which it may be answer'd, that neither are the Generality of Men fit Matches for such Heroines as these ; but possibly a fine Gentleman need not be in any great Distress to meet with a fine Lady, if he did not consider the Person much less than her Fortune. And as for the rest; they too might meet with Matches suitable enough to their Taste, if they made *that* their principal Aim. There are Women capable of giving every one of us Satisfaction. It is our Business to single them out, if we would render them and our selves happy; and it ought ever to be remembred, that in this State one cannot well be happy or miserable alone; the other will have a Share in their good or ill Fortune.

But it is farther objected, That there can be no such Thing as Friendship, where the Parties are not upon the Level; and that the Subjection and Dependance of the Wife, which is necessary in Marriage, destroys the very Notion of it. That where there is any In-

D

terest



terest or Design, this destroys the very Notion of Friendship. This is another Sort of Commerce, it may be rather term'd bartering, or any thing, than Friendship: But where shall we find, even among Men, Friendships freed from all Views to Interest or Pleasure? And why we should desire it, I cannot conceive. Where is the Immorality of proposing some Advantage or Pleasure to our selves, in the Friendships we contract? Surely the doing mutual good Offices is the firmest Basis to fix Friendship upon, whatever romantick Notions some may entertain of it; and there seems to me a Necessity of different Excellencies, and different Accomplishments in the Parties, to render any Friendship agreeable: As here there may be Beauty and Wit, and an easy Condescension, on the Woman's part, and Strength and Judgment on the Man's. She may employ her Wit and Prudence to divert his Cares, and render him easy and happy in his House; he his good Sense and Judgment in providing for and protecting her. And these mutual good Offices surely have a natural Tendency to promote and advance the Friendship.

There are also many other Incidents in Marriage, that hourly heighten and improve the Flame; there are thousand little Pleasures,  
besides

besides conjugal Endearments, that perpetually encrease the Affections of an agreeable Pair, which cannot possibly be practised with those of the same Sex. Nor does the sharing one common Fortune, contribute a little to cement the Friendship: Even that generous Concern they shew for one another, the being griev'd when our Friend is griev'd (which is looked upon as so dreadful a Thing, and made one Argument against Marriage,) serves but to encrease their Affection. And is not the participating common Joys, the sharing in each other's Success, another mighty Charm? What is more likely to advance their mutual Love? Therefore why Friendship may not be as perfect and as lasting between Man and Wife, as between any two Men whatever, is not easy to be imagined.

Still some Gentlemen reply, it is in vain to amuse us with Dreams of Happiness, in a married Life; must we not part with our dear Liberty, which is more to us than all other Blessings put together? But what Sort of Liberty is it these Gentlemen contend for? Is it a Liberty to have all the Women of the World in common? A Liberty to invade every Man's Property, as Occasion offers? Or would they have no such Thing as Property in this Case?

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Can they suppose that the most desirable Creatures in Nature would occasion no Contention, when every other Trifle does, where Property is not settled? We need not fetch Instances from *Greece*, or *Rome*; there are *Helens* to be found in every Country, if not *Lucretia's* enough to engage Families and Nations in perpetual Strife, and set the World in Flames, if Property was not settled. And what must be the Condition of Children born of such a promiscuous Commerce? Who would labour, or deny himself any thing, to support and educate those Children he could have no Assurance were his own? And miserable must be the Condition of their Mothers, who, if common to all, would probably be provided for by none, except here and there a Favourite, who possibly might have the Satisfaction sometimes of seeing her Lovers cut one another's Throats before her Face.

But farther, would not that good Will and Benevolence we extend to our Relations, every where be wanting, if a promiscuous Use of Women were allowed? How could there have been such a Thing as a Family, or Society, much less a Kingdom, established upon the Face of the Earth, if Men had none, or knew no Relation they had to one another?

And

And shall we have no Regard whether our Actions tend to the common Good, or not? But as we find Property is already settled, without waiting for our Advice in the Matter, shall we have no Regard to the Distractions and Distresses we may reduce private Families to by allowing our selves these unaccountable Liberties? Shall we corrupt Wives and Daughters, and of the nearest Relations, make them the most dangerous Enemies? Shall we promote Contentions and Divisions among Relations, encourage the Breach of solemn Oaths, be the Occasion, if not the immediate Authors, of Murders and Adulteries, and think our selves innocently or honourably employed? How does the thoughtless young Fellow, by these Practices, expose himself to dangerous Quarrels, and much more dangerous Diseases, which he communicates, perhaps, to others; and propagates to his and their Posterity? And what is like to become of the miserable Issue begot in these Embraces? perhaps strangled by their unhappy Mothers, as soon as born, to prevent their own Shame, or Want; or perhaps sold to Thieves or Beggars, to be brought up amongst the vilest Wretches, where they shall not only know Distress and Want, but be taught to cheat and pilfer, and every other

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wicked Art, before they arrive at the Use of Reason : They may probably be thrown into Prisons and Dungeons, and undergo the Hangman's Lash, till they arrive at their last Stage, when they shall receive the Gallows for their Portion. Or suppose them sold to those who shall put out their Eyes, or make them Cripples in their Infancy, in order to extort good People's Charity. Who, that has any Humanity, can, without Horror, reflect on the many Miseries Children produced in such Embraces must be exposed to ? Can we detest hard Usage and Cruelty in others, and be insensible of the Miseries our own Flesh and Blood may probably be reduced to, by our thoughtless Management ? Do we indeed pretend to Morality, (not to say Religion, for that and Superstition seems as at this Day to be held in equal Veneration ; ) can we pretend to Morals, and yet be guilty of the grossest Immoralities ? It was indeed an Act of great Humanity in the *French* King, to make Provision for such helpless Infants, whose Parents abandoned them to such Distresses, as have been here enumerated ; the Thought became a Monarch : But the best that I can suppose of these wretched Fathers, is, that they have no Thought at all, that they are utter Enemies to Consideration, or some  
of

of them would startle at the Consequences of their loose Behaviour, when exposed in proper Lights.

But farther, let a Man turn the Tables, and suppose himself Master of a Family, blessed with a kind obliging Wife, and beautiful Daughters, living with them in perfect Harmony and good Understanding, and one of these thoughtless Gentlemen, without any Regard to Honour or Conscience, shall break through all Rules of Friendship, and Gratitude, and Hospitality; and while he is heartily and generously entertained by the Master, be laying Plots to debauch his Wife and Children, and reduce them all to the extremest Misery; what Opinion should we entertain of this our treacherous Friend? Under what Character, what Denomination, should we rank him, when we find him acting so base, so vile a Part? But however our Blood may rise, however we may reflect with Indignation on these Practices in others, may it not justly be said to every Libertine, *Thou art the Man?* Even thou, that layest Claim to such a Share of Morality and good Breeding, art perpetrating as foul Crimes as ever Profligate was guilty of. Thou art laying Scenes of the greatest Horror and Confusion, under the specious Pretence of Gallantry. O

fatal Influence of Sounds! How is it possible that we should be thus imposed upon? That the basest Actions, by giving them plausible Names, should seem to alter their Natures, and induce us to run precipitately into Acts of the highest Cruelty and Injustice! To break thro' the strongest Ties of Friendship, and still persuade our selves we are Men of consummate Honour and good Breeding! To cut the Throat of the Husband we have thus abus'd, has been esteemed a Piece of Gallantry. But surely, the Words, *Honour* and *Gallantry*, were never thus prostituted in any other Instance.

There are, it is acknowledged, Inconveniences to be met with in the married State: 'Twould be Folly to expect perfect Happiness in a Life destin'd to a Vicissitude of Pain and Pleasure, and intended only to train us up for that Happiness we vainly grasp at here. . He must know little of the World, that does not know he will have some Exercise for his Patience in every Condition; but possibly there may be found as few Inconveniences in this State, which God himself hath instituted and approved, and as rational Satisfaction, as in any other of our own devising. These Gentlemen themselves acknowledge, there is no living comfortably without the other Sex; all  
the

the Dispute seems to be, whether a wild roving Lust, or a regular Marriage, is to be preferred? To obtain Pleasure, and avoid Pain and Uneasiness, seems to be the Pursuit of every one; and the Intention of these Gentlemen is certainly to enjoy all that is desirable in Woman, without the Cares and Inconveniences incident to a married Life. But I appeal to their own Experience, whether they don't often find as great Inconveniences in their lewd Adventures, as married Men are liable to? But admitting they could find their Account in this Practice, and might promise themselves some Exemption from that Care and Sorrow to which other Mortals are doomed; yet all wise Men agree, that no Man was made for himself, but ought to have a Regard to the general Good of Mankind, and to the Society of which he is a Member. And I cannot conclude this Head better, than with that Speech, which *Augustus* is said to have made to the Knights of *Rome*, upon the like Occasion.

“ Gentlemen, I am marvellously troubled  
 “ at your Behaviour, I know not by what  
 “ Name to call you; not by that of Men,  
 “ for you perform no manly Thing; not by  
 “ that of Citizens, for the City might come  
 “ to an end and perish for you; not by that  
 “ of



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“ of *Romans*, for you intend to destroy the  
 “ *Roman Name*: I am sorry, infinitely sorry  
 “ to observe your Numbers; no Endeavours  
 “ of mine have been wanting to make you a  
 “ great and powerful People, but ye defeat  
 “ all my Designs. Have ye no Regard to  
 “ the Providence of the Gods, or the wise In-  
 “ stitutions of your Ancestors? What Seed,  
 “ what Remainder of Mankind will be left,  
 “ if all People should imitate your Examples?  
 “ And as the Beginning of this Mischief pro-  
 “ ceeds from you, ye ought justly to sustain the  
 “ Blame, if universal Ruin should ensue:  
 “ But if none follow your Example, as I hope  
 “ none will, surely all must hate you. You must  
 “ live detested by every Man, who introduce  
 “ such Rules and Courses of Life; as if all  
 “ would imitate Mankind must fail and be ex-  
 “ tinguished: All Crimes laid together, can-  
 “ not equal yours; ye are guilty of Murther,  
 “ in not suffering those to be born, which  
 “ ought to proceed from you; ye are guilty of  
 “ Impiety, in extinguishing the Names and  
 “ Honours of your Ancestors; ye are sacrile-  
 “ gious, in abolishing your Kind, who sprang  
 “ from the immortal Gods, and destroy hu-  
 “ man Nature, the principal Thing consecra-  
 “ ted to them: Ye do in Effect, by this Prac-  
 “ tice,

“ tice, overturn their Temples and their Al-  
 “ tars, and demolish your City in depriving it  
 “ of Inhabitants; for a City consists not in  
 “ Houses, Portico's or Forums void of Inha-  
 “ bitants, but in Men.

“ Consider *Romulus* your Founder: What  
 “ would he think of you, to refuse to pro-  
 “ pagate your Species by lawful Marriage?  
 “ What would those *Romans* who were with  
 “ him think, who hazarded every Thing, ra-  
 “ ther than want Wives, when they made  
 “ themselves Masters of the *Sabine* Virgins  
 “ who were Strangers? Whereas ye, their Po-  
 “ sterity, cannot love those that are of the  
 “ same Stock with your selves. They entred  
 “ into War to procure an Offspring, while ye  
 “ will not endeavour to have Children by  
 “ your fellow Citizens: And to what Purpose,  
 “ with what Design do ye live in Coelibacy;  
 “ is it the same with that of the *Vestal Vir-*  
 “ *gins*? If so, ye ought to be punished as well  
 “ as they, if ye do not preserve your Chastity.  
 “ Be not displeased at my Words, my self  
 “ and your fellow Citizens have much more  
 “ Reason to be displeased with your Actions:  
 “ Therefore, if you find your selves touched,  
 “ be advised to repent, that instead of repre-  
 “ hending, I may commend and thank ye for  
 “ the

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“ the Time to come : Before my Time it was  
“ not lawful for any to neglect Marriage and  
“ Posterity, Laws having been made against it  
“ at the first founding of the Commonwealth ;  
“ and the Senate and People have since that  
“ ordained many Things against those who live  
“ unmarried. I have increased the Mult of  
“ unmarried Persons to render them obedient,  
“ and have proposed Rewards to encourage  
“ and excite them to comply with me, that  
“ these Advantages might provoke them to  
“ Wedlock and the Procreation of Chil-  
“ dren, if nothing else will ; but for your  
“ Parts, ye seem neither to desire the Re-  
“ wards, or regard the Penalties ; but as if  
“ ye lived in no Society or Commonwealth,  
“ give out that you make Choice of a Life,  
“ void of the Care and Trouble that attends  
“ Matrimony and Children ; whereas, in so  
“ doing, ye are no better than Thieves and  
“ Robbers ; ye are not really so far taken with a  
“ solitary Life, as to live without Women, or  
“ without a Bed-Fellow or Companion at the  
“ Table ; but by this Course you gratify your  
“ wanton Lusts and Appetites, at the Expence  
“ of others.

“ I have not been in great haste in enforcing  
“ these Institutions ; first, I allowed you the  
“ Space

“ Space of three Years, and then of two ; but  
“ neither by threatning, exhorting, deferring,  
“ or entreating, have I gained any Thing : Ye  
“ cannot but perceive how many more ye are  
“ than the married Men ; whereas ye ought to  
“ have produced as many, nay, as many more  
“ as ye are. By what other Course is the Na-  
“ tion to be continued ? How can the Com-  
“ monwealth be preserved without Wives and  
“ Children, except you expect the Fable should  
“ be fulfilled, of Persons rising out of the  
“ Earth ? For Shame do not extinguish the  
“ *Roman* Stock and Name, and deliver over  
“ your City to Strangers : Shall we manumit  
“ our Slaves, because we would have many Ci-  
“ tizens ? Shall we give the Freedom of our  
“ City to our Associates, that it may be filled  
“ with People, while ye who from the first  
“ Original were *Romans* ? The *Valerii*, the  
“ *Julii*, &c. resolve together with your selves  
“ to destroy all such Names and Families : I  
“ am ashamed to repeat and dwell upon this  
“ pernicious Practice ; put a Stop to your Mad-  
“ ness, and now at length consider many of  
“ us have been consumed with Wars, and  
“ many by Diseases, and that the City can-  
“ not be safe, except it be replenished with  
“ Children : Let none think I am ignorant,  
“ that

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“ that there are some difficult and troublesome  
 “ Occurrents in Marriage; but ye ought to  
 “ consider, that there is nothing good that hath  
 “ not some Bitterness mixed with it; that the  
 “ greatest and most excellent Enjoyments  
 “ have many harsh Things joined with them,  
 “ which, if ye would decline, ye must not de-  
 “ sire the Good: We cannot attain to Virtue  
 “ or true Pleasure, without Labour; and tho’  
 “ Matrimony have its Inconveniences, yet  
 “ compare the Advantages and them together,  
 “ and ye shall find them over balanced by far;  
 “ not only as to the Conveniences which the  
 “ Thing in its own Nature affords, but as to  
 “ the Rewards also proposed by the Laws. I  
 “ thought fit (Citizens, for I hope you are  
 “ now persuaded to retain this Name, and to  
 “ accept of those of Husbands and Fathers) thus  
 “ to expostulate with you, unwillingly truly,  
 “ but out of Necessity; not as an Enemy or  
 “ one that hates you, but out of Love and De-  
 “ sire to have many like your selves; so that  
 “ inhabiting lawful Houses, and having our  
 “ Habitations full of *Roman* Offspring, we  
 “ may approach to the Gods, with our Wives  
 “ and Children, and communicating with one  
 “ another in all publick Things, may converse  
 “ together in the Enjoyment of them. How

“ can I be said to govern ye, if I suffer ye to  
 “ be diminished? How can I be called any  
 “ more your Father, if ye have no Offspring?  
 “ Therefore if ye really love me, and have  
 “ given me the Name of Father in Honour,  
 “ and not out of Flattery, do your Endeavour  
 “ to become Husbands and Fathers, so that  
 “ ye may be Partakers of it, and I my self  
 “ may not bear the Name in vain.

But there remain yet a melancholy Set of  
 Gentlemen, who are ever upon the dismal,  
 and extend their Cares in this Affair, even be-  
 yond this World, and these will expect to be  
 considered: They object against Marriage on  
 the Account of the Miseries they and their Po-  
 sterity are liable to, both in this and the other  
 World: The Marriages of poor People, espe-  
 cially, they hold to be extremely imprudent, if  
 not immoral. Would you say they leave a  
 Race of Beggars, burthensome to the Com-  
 monwealth, and exposed to ten thousand Casu-  
 alties and Misfortunes? Would it not grieve  
 the Soul of any Man, to reflect that his Chil-  
 dren must probably be Slaves, condemn-  
 ed, perhaps, to the Toils and Hazards of the  
 Sea or Land Service, to work in Mines, or  
 serve some insolent Master, who has less Re-  
 gard for them than his Dogs? Shall we say,  
 they

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they beget Wretches who must ever live in a necessitous dependent State, and whose Minds probably will be as abject as their Fortunes? Who would not ever live single, rather than be the Father of so miserable an Offspring? And suppose the married Pair in flowing Circumstances; that they are in this Respect the Favourites of Fortune; yet this will not exempt them from Jealousies or Household Jarrs, from Pain, from Sickness and Diseases; and where one of them is afflicted, if there be any Affection, the other cannot but mourn and be afflicted too; so that whoever enters into that State, doubles his Sorrows. And as to Posterity, admitting the Parents had Wealth sufficient to bestow on all their Children, yet Riches make themselves Wings; Fortunes unaccountably moulder away and exchange their Owners; and if this should be the Case, then would our Children be much more wretched, than if born to nothing, as being less inured to Want and Hardship, and generally such too are more the Subject of the People's Ridicule: Besides, Poverty is but one of all the many Ills we are exposed to; Gout, and Stone, and a numerous Train of Accidents and Diseases await us: And if it is our Lot to live in Times when our Country is afflicted with Wars and Rebellions; when

when Fathers, Children, and Brothers spare not to dip their Hands in one another's Blood ; when Murders, Rapine, Burnings and Devastations shall be sanctified, by giving the Cause some specious Name ; should we not say in these Exigences, Happy the Man that has no Wife, no Children to retard his Flight, or to become the Objects of the Enemy's Rage ! Better surely, better never to be born, than fall in such tumultuous Times ; and yet who can guard against these Casualties, or insure us they shall not overtake us or our Children ? What Nation in the World, that does not once in an Age at least (some much oftner) experience these or some other Calamities equally dreadful ?

And suppose none of these should happen, he must be little acquainted with the World, that cannot experimentally declare it to be one continued Scene of Perplexity and vain Pursuits ; ever mourning our past Conduct, doubtful and dreading what is to come. Nor will our Misery terminate with our Life. We bring (say they) Creatures into the World, not only exposed to Want and Distresses here, but liable to exquisite and everlasting Misery hereafter. We are told the greatest Part of Mankind, thus everlastingly miscarries ; and how must it allay



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and even extinguish the highest Joys you can propose in Marriage, to think that endless Woe is like to attend one half, at least, of our miserable Issue: Will the Thought that some one or more of them may be happy, be equivalent to that sad Reflection, that some of them must live for ever in the greatest Torments? O shocking Thought! Killing Reflection! What are all the temporary Afflictions, and transient Miseries enumerated before, compared with this dreadful Scene? Shall we not rather chuse to remain in Solitude, and despise the trifling momentary Joy, rather than contribute to the bringing such miserable Wretches into Being?

These are some of the most specious Objections I have met with against Marriage. And as to the first, which seems to prohibit it to all People in low Circumstances, it is to be considered, whether every Man has the Gift of Chastity; for if not, we are only proposing what's impracticable. It may be considered further, whether a Companion, even in the lowest State, may not lighten our Misfortunes; and notwithstanding all the Cares attending such a Marriage, it may not in the main be preferable to a single Life.

If it be granted that every Man cannot live without a Woman, it may be better to let him  
take

take one in a legal Way, where the honest Pair shall mutually assist in maintaining and bringing up the Children, than that the Man should lie with every Woman he meets, and stock the Country with Bastards; who being no Body's particular Care, are much more likely to miscarry, and be a Nuisance to the State, than if they had a settled Abode, and lived under the Care of a Father and Mother: Besides, the lower Part of Mankind, especially with us, are not so extremely miserable as has been represented. Heaven has distributed the common Blessings of Life more equally than we imagine. It is not unusual to find the Man drawn in the gilded Chariot, with a glittering Equipage, more miserable than any of his Retinue. He perhaps is distracted with ten thousand Cares and Fears, when those about him have no other Care, but to attend his Motions. They are cloath'd, they eat, and drink, and sleep, and converse with Freedom, with those of their own Rank, and discover a general Satisfaction in their Countenances and Behaviour, not always to be found among the Great. It was well said of the Philosopher, when his Friends came to redeem him from Slavery, *What are you doing, Gentlemen? Don't you consider I receive my Meat, and*

*Clothes, &c. from this Man, and you are going about to deprive me of my Livelihood?*

To proceed; when the poorer Sort marry, is it so dreadful a Thing for them to work for their Bread, in the Way they have been brought up? It is very rare but they find a Subsistence; and tho' their Food be coarse, their Appetites abundantly supply the Want of Sauces. The Hardness of their Beds they seldom feel; after a Day's Labour their Food is savoury, and sweet their Rest. At their Entrance into Wedlock they are in the prime of their Strength and Youth, and best able to work. Nor is their Charge very great at first; and it is but a little Time before their Children become serviceable to them. They know not what Spleen and Vapours mean, nor the troublesome Rules of State. Neither do any Alterations of Government affect them. Their Wealth, or their Station, can't move the Avarice or Ambition of any. Their Houses will be past by, when the rich and great shall be plundered, insulted, distracted, and perhaps butchered, for their Wealth or Honours; or by way of Revenge, or Retaliation for Oppressions when they were vested with Power. Nor is an honest industrious poor Man a useless Member of the Commonwealth; I'm sure it must be very much  
the

the Fault of the Government he lives under if he be. The *Dutch* may teach us, that the Strength and Riches of a Nation consists in a right Employment of the Poor; and that 'tis impossible we should be too well stocked with People, if we find them but suitable Employment. Where are there fewer Beggars, or where does Trade and Manufactures flourish more, than in that crouded Country? So that the hindering and prohibiting poor People to marry, for fear of stocking the Country with Beggars, is of all other Motives to be contemned; and, as it has been observed, how wou'd the Order of the World be supported, if all were upon the Level? Indeed the not regulating the Poor is certainly a great Reproach and Misfortune to any Nation; but the multiplying our People in it self can never hurt us.

That we are subject to Casualties and Misfortunes, is not to be deny'd; but whether this be a Reason sufficient for Coelibacy, is the Question? Every one must acknowledge, a Friend is a mighty Support under Misfortunes, even supposing he can only relieve us by his Conversation and Advice. There is no such Thing as insuring Happiness, in either State: Heaven is pleas'd our Condition here should be precarious, that we might look farther for a

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Place of Rest. If our Joys wete permanent; should we regard the Author of our Being as we ought? Are we not apt to forget from whence we sprung, and to whom we owe all that we have, notwithstanding our Time and Fortunes are so uncertain as they are? And if this Discipline be most suitable to us, then surely it may be so for our Children too; and he that should pray to Heaven to have them exempted from the Calamities other Mortals are liable too, might perhaps beg the greatest Mischief that could befall them. What room for great Actions? What room would there be for Virtue, in a perpetual Flow of Prosperity? If War, or Famine, or Pestilence surprize us, here may be noble Opportunities of exercising our Patience, Fortitude and Charity, and our Trust in him that made us: If we are engaged in Defence of our Country, against foreign or domestick Enemies, can a Man wish to die a nobler Death, or gain more lasting Honour, than by laying down his Life in her Service? No matter how soon we die, if we are conscious of our Integrity, and go off the Stage with Honour. He that is of a mean groveling Spirit, who studies nothing but his own Ease and Quiet, and has no Regard to the Publick, ought not to be suffered in a Commonwealth.

Where

Where these mean Souls abound, 'tis observed the Destruction of that People is not far off.

The Advocates for the married State, as a farther Argument, urge, that if the Obligation to our Parents arises from their producing us into Being, then surely this Being must be a valuable Good: And if so, those that wilfully neglect to bring Children into Being, neglect to contribute to a valuable Good. If it be not a Benefit to live, how are we indebted to our Parents for producing us into Being?

Again, had it been a Thing indifferent whether ever Man had been, or not, surely Heaven had never created him at all, and commanded him to propagate his Species. And if we don't dissemble with God when we thank him for our Creation, we do esteem it an Act of his great Goodness: And if it be an Act of Goodness to bring one Man into Being, why is it not so to produce more?

Farther, if we really believe our Religion, that it is not very material what our Condition is in this World, whether high or low, rich or poor, for that we are to expect our Happiness in the next, can the Apprehension of Poverty, or any Calamities here, be urg'd as sufficient Arguments against Matrimony? Will any Man pretend to demonstrate, that those that are

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Poor and Distressed here, will be in a worse Condition in the next World, than the Rich and Great! Indeed if our Ease and Pleasure in this World is our ultimate, and only Happiness, then will this Business require another Examination; then indeed, whatever is like to give us any Disturbance or Uneasiness here is absolutely to be avoided, even tho' our Species was to be exterminated; but if both the Duration of our Happiness, and the Nature of it, is infinitely beyond what we can hope for here; then, so as we can preserve our Innocence in the Way God has appointed, it is of much more Importance than all the trifling Advantages we can propose by living unmarried, or marrying to Wealth and Honour.

Still 'tis objected, how do we know but the Children we bring into the World, may not only be miserable here, but hereafter; and that in the highest Degree, to all Eternity. I answer again, this Argument is full as strong against the creating as the propagating Mankind. If it be look'd upon as an Act of the highest Wisdom and Goodness to give us a Being at first, can we be deem'd guilty of Folly or Cruelty, in propagating our Species? According to these Gentlemen, the wisest and most merciful

merciful Thing that Heaven could have done upon the Fall, would have been immediately to have inflicted that Death upon our first Parents, which was threatned, and made them incapable of conveying so much Misery to their unfortunate Posterity.

But as we all acknowledge and adore the Wisdom and Goodness of our Great Creator, from the numerous Effects and Instances we see of both, what have we to dread on this Occasion? Could infinite Wisdom be overseen? Or, can infinite Goodness cease to be so? It is universally acknowledged, that he will do every thing that is wise, and just, and good; nay, that he cannot do otherwise, and whatever our Fate shall be, we our selves shall acknowledge, it could not have been otherwise, and consistent with these divine Attributes: Wherein the Happiness or Misery of the other World consists, what Expressions are to be taken literally in the holy Scriptures, and what figuratively, I shall not take upon me to determine; all that I can be sure of is, that every thing is and will be transacted with the highest Wisdom, Justice and Goodness; and we have no manner of Reason to dread the Consequence of any one Action which Heaven has commanded or encouraged. Nor can we,  
without



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without. Impiety, murmur at the Discipline by which Heaven is pleased to train us up, and qualify us for another, and a far better State.

Our next Enquiry shall be, what Authority Governors and Parents have, in disposing of their Subjects and Children in Marriage.



T H E



THE  
AUTHORITY  
OF  
PARENTS and GOVERNORS.



Onsieur *Paffendorf* is of Opinion,  
“ that a civil Legislator may, by  
“ virtue of his sovereign Authority,  
“ ty, constrain all his Subjects who  
“ are capable by Nature, and have Means of  
“ procuring a sufficient Maintenance, to engage  
“ in Matrimony by such a Time. Yet, says  
“ he, it looks more mild in this Case, to en-  
“ force such an Ordinance, rather by Rewards  
“ to the Compliers, and Subtraction of Bene-  
“ fits from the Recusants, than by direct and  
“ positive

“ positive Punishments.” Of this Sort was the famous *Jus trium liberorum* amongst the *Romans*; and that *Spartan* Law mentioned by *Aristotle*, enacting, “ That he who had encreased  
 “ the State with three Children, should be free  
 “ from the Trouble of keeping Watch; and he  
 “ that had one above that Number, should stand  
 “ farther exempted from all kinds of Burthens.” After the same Manner *Strabo* informs us, that the *Persian* Kings proposed a yearly Prize to those who had been Fathers of most Children.

“ It is no less evident, says he, that a Prince  
 “ or State would act most ridiculously, as well  
 “ as most unjustly, should they in general for-  
 “ bid Matrimony to all their Subjects, or  
 “ should they allow this Privilege to the first-  
 “ born only of every Family, and enjoin strict  
 “ Coelibacy to all the rest; for it is impossible  
 “ that in so great a Number, all should be able  
 “ to lead a Life of Severity and Continence.” Nor would these Constitutions be a more merciful Way of retrenching the exuberant Flood of Subjects, than the cruel Practice of exposing Infants, so common in antient *Greece*, or the other of procuring Abortion, which *Aristotle* himself adviseth.

But if it appear upon common Reason and Experience, that any particular Office in a State  
 can

can be more conveniently discharged by an unmarried, than a married Person; the civil Laws may fairly restrain such an Employment to Men that are content to live singly, and may oblige them to quit the Honour, when they change their Condition. Provided still, that the Number of Men privileged to forbear Matrimony by the Gift of Continence, be sufficient to fill these Offices with a constant Supply. For it must not be supposed that the Design of such an Ordinance, is either to license irregular Lusts, or to do Violence to any Man's natural Temper; in as much as no Man is compelled to act in this Capacity, who judgeth himself unfit for the Service: And it must be a farther Proviso, that as to the great Business of Posterity, due Care hath been taken of it another Way, so that it may not suffer by these Restraints.

In the same Manner it is lawful to forbid an Ambassador, a General, or a Soldier, when sent on a long or dangerous Adventure, to carry his Wife with him in the Expedition. Farther, since the natural Obligation to Matrimony is undeterminate, and admits of some Latitude, the civil Legislator may fairly fix the Age of the Persons who shall be thus joined together, or assign a Period taken from some other

other Consideration. Thus in the *Lex Poppea* amongst the *Romans*, it was ordered that no Woman under fifty should marry a Man of sixty; and no Man under sixty, a Woman of fifty; which we find afterwards repealed by *Justinian*. So *Plato* limits the Time of a Man's being a Father, from thirty to fifty five Years of Age; and of a Woman's being a Mother, from twenty to forty. Amongst some People, it was unlawful for a Man to marry, before he had given some signal Proof of his Valour upon the Enemy: As *Strabo* tells us of the *Carmanians*, no one of whom was permitted to have a Wife, till he had taken off the Head of an Enemy and presented it to his Prince.

And what is more, though Persons are naturally free to marry whom they please; yet a Government, if it seem for the Interest of the State, may in some Cases restrain and limit the Privilege: For Instance, it may be ordered, that no Subject shall marry a Foreigner, none of the Nobility a *Plebeian*. *Arrian*, in his History of the *Indians*, reports that the several Orders of the People were forbid marrying one into the other; a Husbandman could not give his Daughter to an Artificer, nor an Artificer return the Compliment in the same Manner.

Lastly,

Lastly, it may be enacted by civil Powers, that Marriages shall not be contracted, but with the intervening Consent of publick Authority, especially between Persons of considerable Figure and Importance in the State. The Force of which, and of the like Laws, may amount to this Effect; that all Matches contrary to such Injunctions, shall either be declared void, or shall be divested of certain Privileges, with which they would be otherwise attended.

As to the Power of Parents in this Case, Mr. *Puffendorf* is of Opinion, “ that when  
 “ Children have left their Fathers Family,  
 “ ly, they are perfectly at their own Disposal;  
 “ but as on one Side, the Father ought not to  
 “ expel the Children his House without weighty  
 “ Reasons; so if they should have just  
 “ Grounds for departing, and cannot prevail  
 “ on their Fathers to give Consent, their Duty  
 “ does not hinder their removing, and concerning  
 “ their Affairs contrary to his Humour,  
 “ especially if they freely resign all future Dependence  
 “ upon him for their Fortune:” And it is now generally held, that the paternal Power does not extend it self so far, as to the reversing a matrimonial Contract, if carried on by Persons of mature Age and Reason: It is said indeed, that filial Duty requires that Children

dren should not oppose their Parents Advice and Directions in this Case; yet if they do break through their Duty, the Act is valid; for an Obligation to hear and respect another's Advice, does not divest a Man of the Power of governing his own Concerns. And *Quintilian* was of Opinion, that if a Son ought to be at Liberty in any Case, he ought to be so in his Marriage; *for who, says he, can love by the Eyes or Affections of another?*

By the Laws of *England*, whoever shall marry a Maid under sixteen, without the Consent of her Father, Mother, or Guardian, shall suffer five Years Imprisonment, or pay a Fine to be assessed by the Court of *King's Bench*; and if the Maid agree to such Contract, her Lands shall go to the next of Kin for her Life; but the Law does not pretend to make the Contract void, even in so green an Age.

By the *Canons* made in 1603. it is enjoin'd, that none under the Age of twenty one shall contract Matrimony without the Consent of their Parents or Guardians; yet if the Parties can find a Priest to perform the Ceremony, and they are above the Age of fourteen and twelve, the Marriage is valid.

And it is observable, that after the Parties have arrived at the Age of twenty one, none of  
our

ecclesiastical or civil Laws, lay any Manner of Restraint or Discouragement on those who contract Matrimony, without the Consent of their Parents. They seem then to supersede the Authority of the Parent; and admit that Persons of that Age have the Disposal of their Persons, and are not subject to the Humour of a Parent or Guardian. That they then lie under no Manner of Obligation, but that of Prudence; to remain in a State of Coelibacy; and they are best Judges, whether the Want of a Fortune, or Want of a Husband, is most insupportable. It might not be impolitick, indeed, in Governors to require the Father to advance such a Sum as his Fortune will allow, when his Children are of a suitable Age, and he can have no material Objection to the Match proposed; but till this is done, the Children must remain unmarried, or hazard the Consequence. Indeed, there seems very little Difference between the Burning within the Walls of a Monastery, and the Walls of a Father's House; unless it be, that in a Father's House the Distress is greater; for here both Sexes have a more intimate Commerce than in a Cloyster; and where People are condemned to Coelibacy, no Matter how far one Sex is distant from the other. To be surrounded with Temptation,



tation, and preserve our Chastity, must be admitted to be something difficult. Men seldom approach a Nunnery; and the Thoughts of the cloystered Virgins are diverted with various Amusements: Their Time is divided between Devotion, Painting and Needle-work; and their Bodies macerated with frequent Watchings and Fastings, Penances, and what not. But in our *English* Nunneries, where the blooming amorous Girl feeds high, enjoys her Ease, and has frequent Conversation with the Fellows; this is indeed a Tryal of her Virtue little short of the fiery Tryal, and deserves equal Applause, if she comes off with Victory.

But after all the wise Lectures of the aged Aunt or Parent on the Beauty of Continnce, let but an agreeable young Fellow appear, the Memory of these grave Lessons vanish, Nature will prevail. *Love*, says the Son of *Syrach*, *is as strong as Death*: It is not always to be resisted. Parents may deny their Children Matches at suitable Ages, and compel them to be wicked; but they must look upon themselves to be the Authors of those very Crimes, they so severely reprehend in them. And had not the Miser rather see his Children lewd, than break into his hoarded Treasure? Does  
not

not he apprehend he shall be starved, if he diminish one Penny of his Stock? Let his Children remain single, and he saves his Money. If they follow the Dictates of Nature and marry, he saves his Money too, under pretence of Disobedience. In the mean Time they are reduced to a pretty Dilemma; if we marry we are ruined; if we do not we are damned; they tell us, for doing what we cannot resist. How does such a Wretch compel his Children to curse him, and wish for his last Hour? Prudence or Decency may induce them to stifle their Thoughts, but all the Duty in the World can never hinder a Person's wishing for Water, who is dying with Thirst.

To this, perhaps, some Father may reply, *That he has, and does propose Matches to his Children; but they will have none but those of their own chusing.* And is this the most unreasonable Demand that ever Children made? who can judge for another? Will a Father pretend to know which Lover is like to make the most agreeable Companion for his Daughters? Nor can it properly be called a Marriage, where there is not a Union of Souls as well as Bodies. The worst of all Punishments was deemed the tying a living Body to a dead Carcass; but even that hardly comes up to

this. Ought not such Marriages, with much more Reason, be declared null from the Beginning, where the Hearts of the Parties were never united, than those that are annulled for Impotence. If a Father refuses to consult the Inclinations of his Children, and will propose no Match that is agreeable, he does in effect prohibit their marrying at all; and can that Person be blamed, who refuses to cohabit with a Creature in whom he despairs of enjoying any Satisfaction, with one from whom he would wish to be divorced, before the Ceremony is well finished? Sure better venture loss of Fortune, and even a Father's Displeasure, than enter upon a State that would probably damn all our Joys in this World, whatever he did as to the next: Better content our selves with a very humble Fortune, than perpetually be pestered with an intimate domestick Plague: People are not to run into Temptations, and render themselves irrecoverably miserable, to oblige the fondest Parents. What can be more dreadful than an ill concerted Match, as the Law now stands, when nothing but Death can set us free? Death, which of all other Things is dreaded most! unless it be such an unhappy Conjunction of disagreeable Tempers, if it *can* be called a Conjunction, in which the Soul *has not the least Share.* But

But to consider farther the Prudence of these wise Parents; will they admit what the Scripture does, that the Calls of Nature cannot be resisted by every one? If they do, how will they discover when their Children have this violent Propensity and Impulse to Marriage, any other Way than from their own Relation? And would not they think a Daughter pretty forward, if not impudent, that should acquaint her Father with her Distress? If so, what is to be done, but to marry them when they come to Years of Maturity, unless they themselves chuse a single Life? For what will probably be the Consequence of not disposing of them, when they have amorous Constitutions? Nature will have its Course: We may as well divert a Torrent, or stop their Pulse from beating, as allay their amorous Heat with a little hypocritical Advice. Besides, with what Face can a Man that has been a Father, preach Coelibacy to a Child, at an Age when their Passions are strongest? Either old Folks forget themselves, or they have no Compassion for their Children. They force them upon Scenes of Wickedness and Villany, while they pretend an Abhorrence of them. Does a Father send his Son into unlawful Embraces, and think he

can be innocent of the Crime himself? What Consequences are there so bad, that such Fathers may not justly look upon themselves as the Authors of? And if Heaven has implanted these Propensities in us, which holy Writ assures us are not to be overcome; will Governors or Parents pretend to interpose, and say you shall not satisfy them? Why dont they take upon them to command the Wind and Waves? It would not be a whit less ridiculous.

To reduce this Matter to a Point: Such a Man cannot live unmarried innocently; his Governors or Parents, notwithstanding, command him to live unmarried; then in Effect do they command him to live wickedly, which it is generally held no Powers on Earth can do.

Doctor *Whitby*, by these Words, *All Men cannot receive this Saying*, says we are to understand, all Men cannot live single and abstain from Marriage; from whence he infers, that neither Men or Women can be obliged to do so by any monastical Vows; *for none ought to be obliged*, says he, *by Vows to do that which they cannot do without sin*. And surely, if those who after a long Time of Probation, and having voluntarily vowed

vowed Cœlibacy in the most solemn Manner, are not obliged to live unmarried ; then much less those, that never entered into any such Vows : A Command to do what is impious, or impossible, is in the Nature of the Thing a void Command.

The next Thing I shall consider, is the, Power of Husbands over their Wives.





THE  
POWER  
OF  
HUSBANDS  
OVER THEIR  
WIVES.



MAN does not seem at the Creation to have had any Dominion over the Woman: Nor can there be any Reason assign'd, why either should have any Superiority or Command over the other, in Paradise, where Reason and Virtue reign'd triumphant, and the happy Pair needed

needed not the Restraint of Laws, or Compacts: But the Superiority seems to be given by the positive Command of God, upon the Fall, in that Text, *Thy Desire shall be to thy Husband, and he shall rule over thee.* Nor is that Right of the Man's *now* so indefeasible, but we see the Laws of Kingdoms, or particular Compacts, may restrain or alter it. And no Man can say that this or that particular Woman is subject to him, until she has made her self so by Compact. Indeed God has directed, that in such Agreements the Man should have an Advantage, but he can have no greater or other Power or Advantages over her, than is stipulated for, or the Laws of the Country confer upon him: And he may give up or wave his Right, upon what he esteems a valuable Consideration. We may observe the Laws and Customs of every Country, determining their respective Rights and Privileges; for instance, in some Countries the Wife is little better than a Servant; she is not permitted to eat with her Lord, or approach him, but upon her Knees: In others, she is treated as an Equal, takes the right Hand at the Table, and in Publick; and the Devotion or Respect seems to be paid by the Man to her.

Again:



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Again; in some Countries the Woman is not entitled to any Part of her Husband's Fortune, upon his Decease; in others she will have a third, and in another, half what he leaves: In these, and such like Cases, either Party I take to be entitled to just so much Respect, and to such Privileges and Advantages, as the Laws and Customs of the Country require, and no more; and, notwithstanding that natural Superiority which is pretended to on the Man's Side, it will be granted, if the Man marries his Sovereign, he will nevertheless remain a Subject, unless something is stipulated to the contrary. But admitting the Man has by Nature an Authority over the Woman, and that there is that Inequality in the Sexes, which my Lord *Hallifax* insinuates, where he says, that "for the better Oeconomy of the World, the Men, who were to be Lawgivers and Governors, had the larger Share of Reason bestowed on them:" Yet he grants, that upon Examination it will be found that Nature is so far from being unjust to the Ladies, that she is partial on their Side; "She hath made you, says he, in his *Advice to a Daughter*, "such large Amends, by other Advantages, for the seeming Injustice of the first Distribution, that the Right of complaining

“ plaining is come over to our Sex: You have  
 “ it in your Power, not only to free your  
 “ selves, but to subdue your Masters, and, with-  
 “ out Violence, throw both their natural and  
 “ legal Authority at your Feet. We are made  
 “ of different Tempers; that our Defects may  
 “ the better be mutually supplied, your Sex  
 “ wanteth our Reason for your Conduct,  
 “ and our Strength for your Protection; Ours  
 “ wanteth your Gentleness, to soften and to  
 “ entertain us. The first Part of our Life is a  
 “ good deal subjected to you, in the Nursery,  
 “ where you reign without Competition; and  
 “ by that means have the Advantage of giv-  
 “ ing the first Impressions: Afterwards, you  
 “ have stronger Influences, which, well ma-  
 “ naged, have more Force on your Behalf,  
 “ than all our Privileges and Jurisdictions can  
 “ pretend to have against you: You have  
 “ more Strength in your Looks, than we have  
 “ in our Laws; and more Power by your  
 “ Tears, than we have by our Arguments.

“ It is true that the Laws of Marriage run  
 “ in a harsher Style towards your Sex; *obey* is  
 “ an ungentle Word, and less easy to be di-  
 “ gested, by making such an unkind Distinction  
 “ in the Words of the Contract, and so very  
 “ unsuitable to the Excess of good Manners.  
 “ which

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“ which generally goes before it: Besides, the  
 “ Universality of the Rule seemeth to be a  
 “ Grievance, and it appeareth reasonable that  
 “ *there might be an Exemption for extraor-*  
 “ *dinary Women, from ordinary Rules;* to take  
 “ away the just Exception that lieth against  
 “ the false Measure of general Equality.

“ It may be alledg’d, says his Lordship,  
 “ by the Counsel retain’d by your Sex, that  
 “ as there is in all other Laws an Appeal from  
 “ the Letter to the Equity, in Cases that require  
 “ it; it is as reasonable that some Court of a  
 “ larger Jurisdiction might be erected, where  
 “ some Wives might resort, and plead specially  
 “ and in such Instances, where Nature is so  
 “ kind as to raise them above the Level of  
 “ their own Sex, they might have Relief, and  
 “ obtain a Mitigation, in their own Particular,  
 “ of a Sentence which was given generally a-  
 “ gainst Woman-kind.

To this he answers, that the Institution of  
 Marriage is too sacred to admit a Liberty of  
 objecting to it; that the Supposition of theirs  
 being the weaker Sex, hath without all doubt  
 a good Foundation, and maketh it reasonable  
 to subject it to the masculine Dominion; that  
 no Rule can be so perfect, as not to admit  
 some Exceptions, but the Law presumeth there  
 would

would be so few found in this Case, who would have a sufficient Right to such Privilege, that, it is safer some Injustice should be conniv'd at in a very few Instances, than to break into an Establishment, upon which the Order of human Society doth so much depend.

“ You are therefore, says he, to make your  
“ best of what is settled by Law and Custom;  
“ and not vainly imagine that it will be chang'd  
“ for your sake: But that you may not be discourag'd, as if you lay under the Weight of  
“ an incurable Grievance, you are to know,  
“ that by a wise and dexterous Conduct, it  
“ will be in your Power to relieve your self  
“ from any thing that looketh like a Disadvantage to it.

I shall conclude this Head with Monsieur *Puffendorf's* Thoughts on this Matter. “ All  
“ human Persons, says he, whether of one  
“ Sex or of the other, are naturally equal in  
“ Right, and no one can claim the Sovereignty over another, unless it be obtained by  
“ the free Act of one of the Parties; for tho'  
“ in Strength of Body and of Mind we are  
“ allowed to have the Advantage of the fair  
“ Train, yet this Superiority is not of it self  
“ sufficient to justify us in setting up for their  
“ Masters and Governors. Therefore what-  
“ ever

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“ ever Right a Man holds over a Woman, in-  
 “ asmuch as she is by Nature his Equal, he  
 “ must acquire either by her Consent, or by  
 “ the Sword, in a just War: Yet since it is  
 “ most natural that Marriages should be found-  
 “ ed on mutual Good-will, the former Way  
 “ seems more proper for the winning of  
 “ Wives, the other for the procuring of Slaves.  
 “ And therefore in those Countries where it is  
 “ usual to marry their fair Captives, the Men  
 “ lay aside the severe Authority of Mas-  
 “ ters, for a more gentle and more agreeable  
 “ Sway.

If then we suppose all Mankind thus placed  
 in a Condition of natural Equality and Liber-  
 ty, it may happen, that a Woman as well as a  
 Man, shall desire Issue peculiarly for her self,  
 over which she may preside and command.  
 Now to accomplish this End, it is necessary  
 that a Covenant pass between a Man and a  
 Woman for their mutual Assistance, in serving  
 Posterity. If this Covenant be simple, not  
 joined with any Agreement about constant Co-  
 habitation, but respecting barely the Procrea-  
 tion of Children; it confers on neither Party  
 any Sovereignty or Right over the other, ex-  
 cept they may challenge on either Side the pro-  
 mised Assistance, with Regard to Posterity:  
 And

And in this Case, if it was expressly intimated in the Covenant, that the Woman desired Issue properly for her self, and her own Management; the Children shall be under the Government of the Mother: Such a Kind of simple and irregular Marriage we may call *Amazonian*, if any Credit is to be given to the Stories of those warlike Dames. In the same Manner, when *Thalastris* courted *Alexander* the Great, and (as some tell us) the Queen of *Sheba* King *Solomon*; the Offspring could not fairly be reckoned spurious, but in their Way honest and legitimate. So Travellers report of the Inhabitants of the Kingdom of *Congo*, that their main Strength consists in Companies of Women, who live by themselves, in certain Territories assigned them by the Prince, and at set Times choose some that they like best among the Men for the sake of continuing their Breed: If the Child prove a Boy, they send him back to his proper Father; if a Girl, they keep her in their own Train, and educate her under the Severity of martial Discipline.

Now tho' it must be confess'd that this Kind of Coupling is barbarous at least, if not beastly, yet amongst the most civiliz'd Nations there are to be found Instances of Marriages in which either both Parties are declared equal, or else  
the

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the Husband is obliged to submit to the supreme civil Authority of the Wife, as when a Queen who enjoys a Crown in her own Right takes a Husband, and yet retains her Superiority in the Government.





# OF POLIGAMY.

**H**AVING treated of Marriage in general, I shall in the next Place enquire whether Poligamy be allowable. Poligamy may be either where a Woman has several Husbands, or a Man several Wives at one and the same Time. It is said, there have been some Nations who have had their Wives in common: This is reported, particularly, of our Ancestors, the Britons: Ten or twelve of them, says Caesar, have their Wives in common; especially Brothers with Brothers, Fathers with their Sons; but every Woman's Children are provided for by him who first married her. But in this Case, I take it, the Man cannot be said to have several

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Wives,



Wives, or the Woman several Husbands; for every Man, it seems, married his own Wife, and obliged himself to take Care of her Children; but they enter'd into an Agreement, to lend their Wives to one another.

This Practice seems very unnatural and improbable to us at this Day; and one would be tempted to think, even *Cæsar* was mistaken, or had a Mind to impose upon his Readers; for as the Matter is represented to us, Fathers and their Daughters-in-Law, Sons with their Fathers Wives, old and young, cohabited promiscuously. Indeed, if twelve young Fellows, and as many Virgins, placing their Satisfaction in Variety, had enter'd into this State at once; and at the same Time agreed to exchange or lend their Wives, there might have been more Colour for the Story; but that a Father should invite the Son, or the Son the Father, to his Bed; that young Fellows should delight in a Commerce with old Women, or young Girls with old Men; such Facts had need be well attested, before we give an entire Credit to them.

*Plato*, indeed, proposes a Community of Wives, and the *Stoicks* advised it; because by this Means they imagined, that all esteeming the Children their own, would love them with  
equal

equal Tenderneſs; and there would be no room left for Jealouſy or Suspicion of Adultery, that ſometimes are of ſuch pernicious Conſequences. But it is more natural to think, that no Man being aſſured the Children were his own, no Man would be at any great Pains to provide for them; and to ſuppoſe that Jealouſies could be prevented by this Means, is equally ridiculous; for it is ten thouſand to one but ſome would be more admired than others, and conſequently there muſt be endleſs Strife and Contentions about them; while others being neglected, would not fail, by way of Revenge, to give all the Uneaſineſs imaginable to their admired Rivals. If it were poſſible, indeed, to root out of human Nature that Deſire to be beloved again by thoſe we love, or to make a ſlighted Woman eaſy; theſe romantick Schemes might poſſibly be reduced to Practice; but till then, I believe we muſt deſpair of ſeeing Inſtances of Happineſs, in any ſuch Communities and promiſcuous Mixtures.

But this Practice of lending or exchanging Wives, or enjoying them in common, is not properly Poligamy. That, as has been obſerved, conſiſts in the Woman's having ſeveral Huſbands, or the Man ſeveral Wives. The firſt of theſe is generally exploded, for that the endearing

Titles of Relation, it is said, would then be sunk and extinguished : Where none could be certain who was his Father, or who his Son, how, say they, could there be expected any Affection ? And who shall reverence a Man as his Father, when it is uncertain to whom he owes his Being ? It is said farther, that Nature not requiring so numerous a Concurrence, all those additional Supplies must proceed from pure Lust ; and it may be added, that however Heaven may have dispensed with the other Sort of Poligamy, no Countenance, or even Toleration, was ever given to this by the Law of *Moses*.

The Practice of a Man's taking more Wives than one has been almost universal; and has many more Advocates than the other Sort of Poligamy; but this may proceed, possibly, from a Partiality to our selves, or the Ladies declining to write on the other Side. The *Mosaical* Law, it is observed, was so far from prohibiting this Custom, that it seems in several Places of Scripture to suppose it, as in *Deut. xxi. ver. 15.* where it says, *If a Man have two Wives, one beloved and another hated, he shall not disinherit his eldest Son by the Wife he hated.* And, God by the Prophet *Nathan*, reckons up among the peculiar

liar Favours and Blessings he had bestowed on David, That he had given him his Master's Wives into his Bosom. And the *Jews* in general, Mr. Selden observes, held it lawful for a Man to marry as many Wives as he could maintain and supply in all things answerable to that Relation. The *Rabbies* advised, indeed, that no Man should exceed four, except the King, whom they allowed eighteen; and the High Priest was to have but one Wife at a Time, but in Case of Death or Divorce, he might take another; however, if the *Jews* lived in a Country where Poligamy was not tolerated, they thought themselves obliged to act conformably to the Laws of the Country in this Matter; as in the *Roman* Empire, the Laws whereof expressly prohibited this Liberty.

The modern *Jews*, who live in Countries where it is allowed, still keep up their antient Custom of Poligamy; whereas in *Germany* they are never allowed this Privilege; and in *Italy* rarely, and that when a Man has lived many Years with his Wife without Issue.

The *Greeks* and the *Romans*, the wisest and the bravest People that ever appeared in the World, upon the Strength of their natural Reason only, discovered the Fitness and Expedience of having but one Wife; but of this hereafter.

Those that maintain Poligamy to be agreeable to the Law of Nature, say, that the Ends of Matrimony, namely, the Certainty of Offspring, and the Benefit of mutual Assistance, is as well answered this Way, as by confining a Man to one Woman: As to the Objection, that the conjugal Faith ought to be reciprocal; they say, that mutual Faith doth by no Means suppose that the Performances, on each Side, must needs be equal: Nor does the true Intent of Matrimony require, that the Man should confine himself as strictly as the Woman, for the Issue may be as well ascertained, where the Man has two or more Wives; but this cannot be, where a Woman admits of more than one Man. That one main end of Marriage being the obtaining of Children, one Man is, in this Respect, equal to many Women; and that it is an insatiable Lust only, that makes the Wife so averse to her Husband's taking another to his Bed; that if the Husband contracts, indeed, to admit none but her to his Bed, he ought to observe it; but where there is no such Condition, the Wife ought to be satisfied with a competent Share, for she has no more Right over her Husband's Body, than she obtained by the matrimonial Compact; and there is no Crime in placing  
that

that Sex in a Condition inferior to the Man, to whom they owe their Defence and Support : And as to Jealousies and domestick Quarrels, which are said to be occasioned by Poligamy, the Troubles of this Kind are not alike in all Places, but are chiefly found in those Countries where the Women have too high Spirits, or the Men too servile : That in many Nations the Wives, either by their natural Disposition, or by Custom, pay a ready and quiet Obedience to these Laws.

As to the seventh Commandment, *Thou shalt not commit Adultery*, which is admitted to extend to the Man, as well as the Woman ; it is answered, that in *Leviticus*, Adultery is defined to be, *The coming to another Man's Wife, the polluting another Man's Bed* ; and that it is absurd to imagine that a Law against Adultery, directed to a People who actually used Poligamy, should forbid this Practice, without declaring as much in express Words. That Poligamy was never thought to be forbidden, by this Command, by any of the *Jewish* Doctors or Interpreters, during all that Dispensation ; nor was it once reprehended or reprov'd by any of their Prophets, as their other Faults frequently were ; but on the contrary was universally practis'd by the Patriarchs, and the

the best and holiest Men amongst them. They say farther, that all the Right and Title, which one Person can have to the Body of another, must arise from Covenant and the Consent of the Parties; and consequently, if so much is performed as is covenanted for, there ought to be no Complaint of injurious Dealing: That it is not necessary the mutual Performances among all Persons should be alike; for if so, it would be repugnant to the Law of Nature, that one Man should be born a Prince, and another a Subject, and that by virtue of an antecedent human Covenant, not made by themselves, but by others: That none will be so extravagant to maintain, that it is a Breach of natural Equality, unless the Wife be allowed her Turn of governing, as well as the Husband; and that there is the same Difference observable, in the Care of the common Offspring; for how little Trouble does this bring to the Father, in Comparison of the grievous Pains of the Mother? That to commiserate the Condition of the Wives in *Turkey*, is as absurd and impertinent, as to bestow our Pity upon Husbandmen and Artificers, that they should be so unfortunate to live in more uneasy Circumstances than the Nobility: And *that a Woman lies under no Restraint of Conscience,*

Science, from agreeing to this Kind of Matrimony, in a Country where the Practice is allowed by Authority; especially, since if it were in any Degree vicious, the Force of the weaker Sex could never prevail against the Power of Men and ancient Custom. And though the Example of the *Mahometans* may not be of great Weight in this Dispute; yet the Polygamy of the Fathers under the old Covenant, strongly argues that a Multiplicity of Wives was not against the Law of Nature or of *Moses*; and indeed, our modern Divines acknowledge as much: *Whitby* particularly, in his Paraphrase on the nineteenth of *St. Matthew*, says, *That neither Divorce, Polygamy, or Concubinage, were against the Law of Nature, or the moral Law; but that our Saviour introduced a new Law, when he said, whosoever shall, &c. and that these Practices are now only evil, as being against this his positive Command.*

Having produced the Arguments for a Plurality of Wives, and set them in their full Light; let us enquire what is usually urged on the other Side.

And first, they say, that as it is admitted on all Hands, that where the Man covenants he will admit no other to his Bed, but the first Woman he marries, (as it is in all the Christian World)

there



there he ought to be strictly true to his Engagement, and he is unjust if he be not.

They say farther, that where Polygamy is allowed, the Women are in effect Slaves; and it is not to be expected there can be any real Love or Friendship, which was one principal End of Matrimony; but perpetual Jars, Jealousies and Contentions must distract the Family, and not only the slighted Woman her self, but her Children probably must be made miserable.

It is also said, that it cannot be supposed any Woman would thus consent to her Loss and Injury, unless compelled by Force or Fear, or moved by Weakness and defect of Judgment; none of which Causes can found any Right in the Man.

And it is observed, where a Plurality of Wives is allowed, the Man seldom fails to single out a beloved one, whom he prefers to the rest; so that Nature seems, out of a Multitude, to lead us to Unity. *Grotius says, the Wife bestowing her self entirely on her Husband, ought to receive an equal Return of his whole Heart and Affections. That the Family Affairs will be carried on with more Regularity under a single Mistress; and that many Mothers must of Necessity create Fends and Quarrels among the Children. And the Turks them-*

themselves, it is said, in the Article of Marriage, do not now take the same Liberties they formerly did, from the Experience of the Inconveniences and Mischiefs that attend Polygamy.

Doctor *Whitby*, in his Notes on 1 Cor. vii. 4. upon these Words, *The Husband hath not Power over his own Body, but the Wife:* says, *It is plain that Polygamy is hereby forbidden; for if the Man have not Power over his own Body, he cannot give the Power of it to another, and so he cannot marry another. Nor could his Wife be said to have the Power of his Body, if he could give his Body to another.* Again, upon Mark x. 11. from these Words, *Whosoever shall put away his Wife and marry another, committeth Adultery against her;* he infers, that Polygamy must be unlawful, especially under the Christian Oeconomy: For, says he, *if he that putteth away his Wife and marries another, committeth Adultery against her; then he who, having not put her away, marries another, must be guilty of the same Crime; seeing he must at least have the same Power to marry another, when the first is put away, as when she is not.* That since to commit Adultery, is to violate the Bed of another Person: He that commits  
Adultery

Adultery against his Wife must violate her Bed, which no Husband can do only by doing that which an Husband lawfully might do, namely, by Poligamy; for since a Right to Poligamy, is a Right to marry more Wives than one; he that hath this Right, cannot violate the Bed of his first Wife, by assuming another to it. Either, therefore, says he, the Husband under Christ's Institution, and by the original Law of Matrimony, had no such Right; or he that marrieth another, cannot by that commit Adultery against his first Wife.

The Poligamy of the *Jews*, it seems, was so shameful, as Doctor *Whitby* in his Notes on *Rom. ii. 22.* observes, that they would make Proclamation in any Place where they came, *Who will be my Wife for this Day, or while I stay in this Place?* And *Justin Martyr* reproaches the *Jews*, that wherever they travelled or came, they did, with the Permission of their *Rabbies*, take Women and use them as their Wives, under Pretence of Marriage; so that it seemed high Time to put them in mind of the original Institution and Design of Marriage; for under Colour of the Law, they indulged themselves in more scandalous Liberties than the most barbarous Nations, who had no Laws or Rules to act by: And indeed, nothing

thing is so common as to gloss and interpret away the Intent and Design of a Law, or carry it beyond, or besides the Meaning of the Makers, wherever Pleasure or private Interest has the Ascendant.

But let us examine this Matter a little more particularly : Surely that Argument of our Saviour's, *That God made them Male and Female at the Beginning : That there was but one Woman created for one Man*, carries a great deal of Weight with it ; for if a Plurality of Wives would have added to the Joys of *Paradise*, they would not have been wanting : When God said, *It is not good for Man to be alone, I will make him an Help-meet for him*. As the Deity seems consulting and contriving the Happiness of his Creature Man, and to declare that the Society of one Man and one Woman was most delightful and agreeable, since this seems to be the Result of infinite Wisdom and Goodness ; it must require an uncommon Assurance to suggest the contrary : And had not the divine Wisdom thus discovered itself, Reason would naturally lead us to the same Conclusion. Even *Paradise* must have been disturbed, and ceased to have been *Paradise*, had *Adam* had more Wives than one, and any of them could have suspected her self to be less regarded than the other.

Besides,

Besides, unless a Man places the whole of Matrimony in gratifying an insatiable roving Lust, I can't conceive to what Purpose he should desire more than one. Is there that great Difference between the Sexes, that one Woman cannot answer one Man's Demands, so far, at least, as is consistent with his Health, and the Serenity of his Mind? And surely, he that regards nothing else but the Gratification of his Senses, and does not at all consult the superior Pleasures of the Mind, richly deserves to be rank'd with Brutes, with whom he has put himself upon the Level.

If indeed a Man could be supposed to be in Distress, even in a married State, and could not quench his Thirst at one Fountain, there might be some Colour for multiplying Wives; but this possibly is so seldom the Case, that it hardly deserves Consideration: And admitting there might be such an Instance, would a rational Man, to gratify this wandering Appetite, bring upon himself ten thousand other Inconveniences? Would he be content, for this, to forfeit the Friendship of his first Spouse? to render her and her Children miserable, and make his House a Scene of endless Debate and Strife? Would he subject himself to the little Tricks his Wives wou'd not fail to play,

to

to promote their separate Interests? For from neither of them could he expect that his should be at all regarded. But I believe it will be admitted by all, whose Senses are not sunk below their Girdles, that Man and Woman are so equally match'd, that nothing but a disorder'd, ungovernable, rowing Lust, can induce a Man to wish for more Wives than one. We see indeed Men of luxurious Appetites, who seem to place all their Happiness in Taste, perpetually proggings for their Bellies, and hankering after Varieties and Dainties, whose whole Conversation turns upon good Eating, and their Skill in Cookery, as the Conversation of these does upon the Gratification of another Appetite; but are not such as these the most contemptible Wretches among the Sons of Men?

Nature, indeed, has made our Food necessary to our Support; nor is there any manner of Immorality in eating it with a Gust, and well prepared; but that a Man should spend the greatest Part of his Time in indulging his Palate, and preparing Sauces, that he should be so immers'd in Sense as to regard nothing else but his Lusts, as if he was sent into the World on no other Design, this surely is to give the Brute the Ascendant with a Witness;

or rather entirely to suppress the nobler Part, the Soul, and sacrifice all to sensual Enjoyments. 'Tis true, our Appetites may and ought to be satisfied, but not in such a manner as to destroy or impair the Faculties of the Mind; or at the Expence of another's Ease and Satisfaction: We ought to have so much Command of our Appetites at least, as to be guilty of no Injustice or Oppression, as surely he is who takes another to his Bed, in the Life of his first Spouse, especially in a Country where the Laws forbid it; unless a Man could shew as great a Necessity for a Plurality of Wives, as there is for one. Indeed where God, and Nature, and Necessity command, it is absurd and impertinent for human Lawgivers to interpose; they may as well forbid the Tide to flow, or our Blood to circulate in our Veins, by an Act of State; but surely where nothing impious, or immoral, or impossible is commanded, there our Governors ought to be obeyed.

Another Argument against Poligamy, is taken from the equal Numbers of both Sexes; for if some Men allow themselves half a dozen or half a score Women, then others must have none at all; and surely it will be thought more just, as well as necessary, that every Man  
should

should have one, than some few should engross the whole Sex to themselves. Nor do I see how the World would be sooner peopled this Way, than by confining one Man to one Woman; tho' this has been look'd upon as a great Reason for it, especially in the first Ages of the World.

And there seems to be this Injustice in Polygamy, that it reduces one half of the human Species to the Condition of Slaves, who were certainly designed to act the part of Friends; both Man and Woman, therefore, would be in a much worse Condition by this Practice, as they would lose the sweet Intercourse of Friendship, one of the principal Ends of Marriage: So far is the Allowance of it from being a Privilege to any, that are not immersed in Sense, and have not lost all relish for the Pleasures of the Mind: Not that I apprehend every Gratification of our Appetites inconsistent with Thought and Reflection; but every Pleasure, when it is too far indulged, becomes more than one Way detrimental. Wine and Food seasonably and moderately taken, repair and restore drooping Nature, raise and revive the Spirits, and make them fit for Action; while Intemperance and Excess drown the Soul, disorder and cloud the Understanding,

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and



and make her incapable of exerting any of her Faculties to Advantage. The same may be said of the softer Delights of Love; and Nature seems wisely to have ordered, that too frequent a Repetition should be attended with Satiety and Disgust, that we might not spend our whole Time in these Enjoyments, and wholly neglect the nobler Part. Too plentiful a Table, abounding with Variety of Meats, does but incline us to overload our Stomachs; and in a Variety of Women, may we not be tempted to exceed the Bounds of Moderation, and render our selves incapable of enjoying the more refined Pleasures of the Mind?

If it be still urged, that the Permission of Polygamy by *Moses's* Law, gives a sufficient Sanction to the Practice; for that Morality and the Will of Heaven must always be the same; I answer, there were many other Things permitted, or connived at, in *Moses's* Law, as well as this, that are not allowable to Christians; particularly, that Spirit of Revenge, conspicuous in the Writings of their greatest Men; not but these Things were then contrary to the moral Law; but there had not then appeared that divine Commentator, to explain the Extent of those Commands; and shew what Man ought to be, if he hoped to arrive

rive at a State of Perfection. A wanton Eyd had not then been interpreted Adultery; or Hatred, Murder; and many Things might be excused before, which would be Crimes under this Dispensation. The Land of *Canaan*, Milk and Honey, and temporal Enjoyments, were to be the Rewards of their imperfect Service; and no Wonder if temporal Pleasures had a suitable Influence on them. The ecstasick Bliss of an angelick State was but darkly understood by them; but the divine Lawgiver has now shewn, how much all sensual Enjoyments fall short of the refined Pleasures of disembodied Spirits, and the heavenly Vision; and therefore nothing can be more absurd and unbecoming, than for a Christian to place his chief Happiness in a *Seraglio*, or *Mahometan Paradise*.

Monsieur *Puffendorf*, having considered the Arguments for and against Poligamy, concludes as follows: *It is very clear and certain*, says he, *that the most decent, the most proper, and the most peaceable Way of Wedding, is for one to live contented with one: This is to be esteemed the highest and most perfect Kind of Matrimony; and the Laws and Conditions of it are most religiously to be observed, as well by the Husband as the Wife.* And as that Subject's

Loyalty to his Prince would be esteemed very low and imperfect, who should do no more to support his Government, than just what he is compelled to do by the strict Rules of Law; so that Christian will be held to act upon a low and slavish Principle; who shall endeavour to advance no farther in the Paths of Virtue than his Fears prompt him: Who never endeavours to excel, and sees no Beauty in Virtue, or Reasonableness in the divine Commands; and would give no Attention to any Thing recommended by our Saviour, or his Apostles, (as this of single Marriages certainly is, if it be not commanded) if he thought he could escape the Punishment of his Transgression: Such a luke-warm Christian, who will ever be putting of Cases, how far he may, or may not go, and does not readily perform, what he thinks most agreeable to the divine Will, and most conducing to the Happiness of Mankind, will hardly deserve the Honour of being ranked among the Disciples of the blessed Jesus.

Not but that in extraordinary Cases some Allowances might be made, without transgressing the Rules of Christianity; as where one of the Parties shall be seized with such an incurable Distemper, as shall render them incapable

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ble of the marriage Duties; or where one of them shall be seized with madness: Here, if the Calls of Nature are not to be resisted, and none would advise the propagating a Race of Madmen; in such a Case, if a Power was lodged in the Government to relieve them in these Distresses, I cannot conceive there would be any Immorality in taking a second, in the life Time of the first; and where the Government could not relieve, a *real Necessity* would certainly go a great Way in excusing the Practice; though it be granted, that nothing but an *absolute Necessity* can warrant it.

Our Law it seems makes no Exception in any Case, for by the 10 Jac. I. cap. 4. it is enacted, *That if any Person shall marry again, the first Husband, or Wife, being alive, it shall be Felony.* But it provides, *that this shall not extend to any, whose Husband or Wife shall be absent seven Years together beyond Sea: Or who shall be absent seven Years together within the King's Dominions, the one not knowing the other to be living: Or to any one who shall be divorced; or whose Marriage shall be declared void by the Ecclesiastical Courts; or to those married within the Age of Consent.*

But it has been held, that this Statute extends to a Marriage *de Facto*, though void-  
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able upon Account of a Pre-contract, or for being within the prohibited Degrees ; but the first Wife cannot give Evidence against her Husband on a Trial ; and the Benefit of the Clergy is not taken away for this Offence.





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## CONCUBINAGE.



FROM Poligamy, we naturally come to consider Concubinage. Concubines are said to be a Sort of inferiour Wives, and their Difference from just and proper Wives, to be introduced purely by positive Law, or by the particular Covenants of the Parties, who to the principal matrimonial Pact may add any thing at their Pleasure, which does not contradict or overthrow it. The chief Reasons on which this Practice seems to be founded, Monsieur *Puffendorf* observes to be these; *viz.* The Preservation of noble Families, the Fear of

injurings

injuring former Children, or the avoiding those great Expences which a Wife in the higher or more perfect Degree might challenge, by the Custom of the State.

It is observed of the *Turkish* Emperors, that after *Bajazet* none of them enter'd into just and proper Matrimony; for he, after his Defeat by *Tamerlain*, falling, together with his Wife, into the Hands of the Victor, took no Part of the barbarous Treatment more to Heart, than the Affronts and Dishonours put upon the Sultaneſs before his Eyes. In regard to this Accident, his Successors abſtain from conjugal Engagements; and as to the Affairs of Iſſue, make uſe of Women in the Condition of Slaves, who are not capable of ſuffering ſo much Injury and Diſgrace. But indeed the *Turks* in general pay no leſs Affection and Kindneſs to their Sons by Concubines, than to thoſe who are born of their legal Wives; nor have the former any leſs Degree of Right to the Goods and Eſtates of their Father.

The *Chineſe*, when they deſpair of having Iſſue in juſt Marriage, have Recourſe to the Remedy of Concubines, eſteeming it the moſt miſerable Thing that can befall a Man, to have no Children who might mourn at his Deceafe, and perform the decent Honours of his Burial.

rial. But however Concubinage might be dispens'd with among the Jews, Turks and Heathens ; among Christians, if Poligamy be prohibited, then this Practice must be prohibited too. And yet it is observable that the Clergy in this Kingdom, and other Parts of Christendom, who submitted to the Jurisdiction of the Pope, were for some time indulg'd in keeping Concubines, tho' they were absolutely prohibited to marry ; and when the Clergy of *England* were restrain'd from both, by the 31 *H. VIII. c. 14.* it was made much more penal to keep a Wife, than a Concubine ; for the former was Felony, without Benefit of Clergy, when by the latter, the Priest only incurr'd the Loss of his Goods and Preferments. And the Punishment of the Women for these Offences, as they were both call'd, was equal to that of the offending Priest. So far did the Superstition and Bigotry of some Ages carry both Clergy and Laity, that Marriage, which they were pleas'd to honour at some Times with the pompous Titles of a *Sacrament*, and the *Ordinance of God*, was nevertheless prohibited at others, under the same Pains as Murder, and under much greater than were inflicted for Fornication or Adultery.

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These Instances of the Fallibility of Popes, Synods and Parliaments, will surely justify us sometimes, in enquiring into the Reason and Justice of their Decrees, especially when they appear so opposite to the Laws of God and Nature. If we submit, and suffer the Penalty, where we can't comply with the Command, it is all that our Governors, whether spiritual or temporal, can demand in these Cases; but to be forc'd to submit our Reason and Understandings, so far as to subscribe to Contradictions, upon their bare Authority, without being permitted to enquire into the Justice or Reasonableness of their Proceedings, is surely the most abject Slavery.

To return; Concubines are said to be a Sort of inferior Wives: But by that I presume is to be understood, that they were of inferior Quality; for it appears in Scripture, that they had not only the same Appellation often, but in the most important Instances, a Concubine was upon the Level with the Wife. We find no Difference made between the Sons of *Jacob*, which he had by the one and the other: The Land of *Canaan* was divided as well amongst those that sprung from his Concubines, as his Wives; and they are all called *Jacob's Sons*, without any ignominious Marks of Distinction.

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There was indeed greater Solemnity used at espousing the one than the other; the Wife, strictly so call'd, being generally of equal Quality with the Man, a Contract was made with her Relations for a Dowry, and a Festival always attended these Contracts: The other was usually a She-Slave, who had no Body to stipulate for her, or any Rights of her own; she and all that she had, except her Maidenhead, were absolutely at her Master's Disposal before, and her Condition was so much better'd by being taken to her Master's Bed, as to silence all Complaints; but the Jewish Law look'd upon her to be so enfranchis'd by lying with her Master, that if he did not like her afterwards, she was to have her Freedom. And surely there can be no Pretence, either in Reason or Religion, that these Wives, or their Issue, should lie under greater Disadvantages or Disabilities than the other, unless where they bring a Portion; there indeed, a Dowry being contracted for with the first Sort of Wives, the Man, having receiv'd an Equivalent, is bound in Justice to make that good: But tho' the others have no Claim of Dowry upon the Man, yet they may claim a Right to kind Usage, and to a Subsistence suitable to the Circumstances of the Husband.

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The *Turks*, as has been observed already, make so little Distinction between one and the other, that whoever first has a Son, such Son is entitled to all the Privileges and Advantages of an eldest Son, whether born of a Wife, or a Concubine.

The *Romans*, it seems, had several Degrees of Wives, the lowest of which were so by Use only, by cohabiting together without any Contract, or any thing stipulated on either Side. These, I find, were frequently of equal Quality with their Husbands; but, why, they should not come under the Denomination of Concubines, I can't see; unless that *Wife* being the more honourable Name, was thought more suitable to their Dignity. But there was one Thing very remarkable in these Sort of Wives; that when they had been enjoy'd several Years by one Gentleman, and had Children by him, he would frequently relinquish or assign them over to one of his Friends.





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# DIVORCE.



THE next Enquiry shall be, whether a just and regular Marriage, may, or ought to be dissolved upon any Occasion? It must be admitted, that according to the common Nature of Covenants, onè Party cannot recede, unless the other hath either broken the Agreement, or consented to a Release. It is therefore held repugnant to the Law of Nature, for either the Man or Woman to depart from the other unconsenting, only for the Improvement of Condition, or Satisfaction of Humour, without being able to alledge any Breach of  
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the matrimonial Contract. A Union enter'd into upon account of Gain, may much easier admit of Separation; than this most strict and solemn Tie between Man and Wife; who by Marriage acquire a Right over the Bodies of each other, which they cannot be deprived of against their Wills; but upon some extraordinary Occasions, whereby the very End and Design of Matrimony is prevented: And although there should be a mutual Consent to part, it would be both indecent and unsafe to allow the dissolving of Marriage, without very weighty Cause; inasmuch as this Liberty of frequent Divorces must exceedingly shock the Strength and Credit of Families, and the Grace and good Order of the Common-wealth.

Mr. *Lock* observes, that the very Nature and End of this Society shews, that it ought to continue for a long Time; for we marry not only to have Children, but to bring them up; and there is a Necessity that the Husband should remain with the Wife, till her Children are grown up, and of Age either to subsist themselves, or with such Goods as he can give them. We see, that by the admirable Wisdom of the Creator, this Rule is constantly observed by the Creatures destitute of Reason. Among the Beasts which feed on Grass and Herbs,

Herbs, the Society of the Male and Female remains no longer than the Time of Copulation ; because the Milk of the Dam is sufficient to nourish the young, till they can feed upon the same Herbs ; but as to Lions and other Beasts of Prey, seeing the Dam is not able to provide for her young ones, the Male also hunts for them : We may observe the same Thing in all Birds, unless it be tame Fowl, who live in such Places as afford them plenty of Food. But tho' the conjugal Union of the Husband and Wife continues longer than that of other Creatures, yet there is nothing in that Union (as I think) says Mr. *Lock*, that can require them to remain together all their Lives, after they have brought up their Children, and put them into a Way of living : *That, says he, depends, as all other voluntary Engagements do, upon the Contract of Marriage ; unless they live in such a State, where the positive Laws command that that Contract should be for life.*

It is said in behalf of these Laws which prohibit Divorce, that the Wife having no Refuge, nothing to trust to in Case of a Rupture, will not fail to yield a ready Compliance to the Temper of her Husband ; and on the other side, this will oblige the Husband to use  
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his Wife, as a necessary Possession, which he cannot on any Account throw up or desert.

That the Consequence of frequent Divorce would be innumerable Adulteries; for a Man who in his Anger has put away his Wife for some trivial Cause, may probably be reconciled to her, when she has married another; and the Familiarity he has had with her, may easily afford him Means to maintain the antient Conversation in private. Besides, where the Women are left thus to the Humour or Inconstancy of the Men, it is not difficult to imagine, what Influence and ill Effects this may have, in Relation to the Children.

One of the principal Causes, which is assigned for the Decay and Corruption of the *Roman* State, is their too frequent Practice of Divorces, either upon slight Occasions, or none at all; which Practice *Juvenal* animadverts on in this Manner :

— I heard him swear,  
*'Tis not that she's his Wife, but that she's fair :*  
*Let her but have three Wrinkles in her Face,*  
*Let her Eyes lessen, and her Skin unbrace ;*  
*Soon you will hear the saucy Steward say,*  
*Pack up with all your Trinkets, and away :*  
*You*

*You grow offensive both at Bed and Board,  
Your Bitters must be had to please my Lord.*

*Dryden's Translation.*

Seneca, *de Benef.* l. 3. cap. 16. says, *Who is now ashamed of breaking the nuptial Union; when so many Ladies of Eminence and Quality reckon their Tears, not by the Number of Consuls, but of Husbands; and are divorced in Hopes of marrying, and marry in Hopes of being divorced?*

It is reported of the *Saracens*, that they hire Wives to serve a present Turn, but to make some shew of Matrimony, *The Woman presents her mock Husband with a Spear and a Tent*, and at the Expiration of the Term agreed on, she may, if she pleases, break up and seek a new Consort. The *Dutch* make no Scruple of contracting this kind of Matrimony at *Japan*, as *Varenias* informs us; and at their leaving the Island, the Marriage is dissolved. The like Practice is said to be allowed, in some Parts of *India* and *Persia*. To proceed, It is held to be unjust and barbarous to put away a Wife, unless upon some extraordinary Provocations; for it loads the Woman with Reproach and Infamy, how virtuous or innocent soever she may really be. It is related



ted of the celebrated *Brittia*, where she and her Lover had proceeded no farther than Espousals, that upon his breaking his Promise, without being able to alledge any Crime against her, she, unable to bear the Scandal, bent all her Thoughts upon Revenge; for *Modesty and Chastity*, says the Historian, *are so highly prized, and so nicely regarded, by these Barbarians, that a Woman turn'd off and deserted, most infallibly loses her Reputation, tho' her Virtue be really safe and unstain'd.*

But in Case the principal Heads and Conditions of Marriage are broken on either Side, it is held, that the injured Party hath Power of receding from the Agreement; for instance, as one principal Design of Marriage is the procuring of Children, either Person may (according to the Law of Nature) renounce the Relation, in case of Desertion, or of voluntary and obstinate Unkindness, as to the Affair of the Bed. This last Omission, it seems, would bear an Action among the *Jews*; and the conjugal Debt, as well as others, might have been recover'd by Process in open Court. Another just Occasion of Divorce, is the violating the Marriage-Bed: And the Reason why Adultery and wilful Desertion are accounted sufficient Causes of Divorce, is said not to arise from

from any particular positive Law of God, but from the common Nature of Covenants, which is such, that when one Party hath broken the Agreement, the other is no longer oblig'd to keep it: And the Force of these Causes is so extensive, as to justify the injur'd Person, not only in refusing to co-habit with the perfidious Wretch; but likewise in passing to a second Marriage: And tho' the Canonists urge the contrary, it is observed, that when they are to gratify a Friend in this Point, they can find out Ways of eluding their own Decrees, by declaring the former Marriage to have been originally null and void; and they very seldom want a plausible Pretence. Another Cause assign'd for Divorce, is the being of a different Religion; St. Paul allows a Dissolution of Marriage in this Case, 1 Cor. vii. 15. *If an Unbeliever departs, let him, or her, depart. A Brother or Sister is not under any Obligation in such Case.* That is, he is not so bound as to be under any Obligation to recal her, or to live without marrying again. Impotency is look'd upon as another sufficient Cause of Divorce; or rather annuls the Marriage from the beginning. But Barrenness is not thought a sufficient Ground; tho' one of the principal Designs of the Institution, was the Propagation

of Mankind. It is allow'd also to be a good Reason of Divorce, if either Party attempt or conspire against the Life of the other. And by the Laws of *Theodosius* and *Valentinian*, besides the Causes already assign'd, if Husband or Wife were convicted of Treason, Sacrilege or Felony, or if the Wife went to a Feast with unknown Persons, without the Consent of the Husband, or if she lay abroad without very good Reasons, or was present at Plays, or if the Husband beat his Wife; in any of these Cases, Divorces were allow'd. The *Jews* thought Divorces not only permitted, but commanded, in case the Wife displeas'd the Husband, by the xxiv<sup>th</sup> Chapter of *Deuteronomy*. And Barrenness was judg'd a sufficient Cause of Separation amongst them. But, regularly, it was not allowable for the Woman to leave the Man, unless he put her away, except only in one Case; and that was, when the Husband falsely reported that his Wife did not prove a Virgin: Here the Woman had her Choice, whether she would stay, or depart; and the Husband, if she chose to stay, was oblig'd to keep her. *Josephus* speaks of it as a Thing very unusual, that *Salome*, Wife of *Castobar*, Prefect of *Idumea*, should send a Bill of Divorce to her Husband. And he relates the  
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same of *Herodias*, *Aristobulus's* Daughter; the Lady who was the Subject of *St. John Baptist's* Reproof.

But it is held by most Divines, that our Saviour took away this ancient Liberty of Divorce, *Matth. v. 32. xix. 8, 9. Mark x. 4, 6, 12. Grotius* held, that from the Beginning it was most pleasing to God that the Bond of Marriage should be perpetual. *Mr. Selden*, in the Explication of the abovesaid Texts, says there were among the *Jews* two Sects, the *Sammeans*, and the *Hillelians*, who maintain'd contrary Notions on the Point before us: The former asserted that a Man ought not to quit his Wife, unless upon some Discovery of Baseness and Dishonesty. The latter, that any Dislike taken of the Woman, was enough to justify a Divorce. Our Saviour then, as an Arbitrator between the two disputing Parties, declares in favour of the *Sammeans*, that it was not lawful, upon slight Pretences, to dissolve an Union instituted by God himself, but only upon the Commission of foul and scandalous Crimes; comprehended, according to the Genius of the *Hebrew* Language, under the general Term of *Fornication*. He adds, that amongst the most ancient Christians; Adultery was not esteem'd the

only lawful Cause of Divorce ; as appears from *L. 8. C. de Repudiis*, enacted by the most religious of all the Emperors, 'till by the Superstition and Corruption of the Papal See, the Bond of Matrimony was declar'd indissoluble, during the Life of the Parties.

*Montaigne* observes, that we think to tie the nuptial Knot more fast, by the taking away all Means of dissolving it. But he is of Opinion that the Knot of the Will and Affections is so much the more slack'd and made loose, by how much that of Constraint is drawn closer together : And that that which kept the Marriages at *Rome* so long in Honour, and inviolate, was the Liberty every one that would had to break them, *They kept their Wives the better*, he says, *because they might part with them if they would*. And in the full Liberty of Divorces, they liv'd upwards of five hundred Years, without any one's putting it in Practice.

*Dr. Whitby*, in his Annotations on the xix<sup>th</sup> of *Matthew*, observes, that God, by making them at first Male and Female, made them so that they might cleave together, and become one Flesh. And when they have, after a mutual Consent to enter into that Relation, done so, they are no more two, but one Flesh,  
and

and therefore are not to be separated; unless by cleaving so unto another, they have made themselves one Flesh with that other. But that those whom God from the Beginning hath thus fram'd, and of whom he hath said, *Let no Man put asunder*, yet he may see Cause to permit, in some Cases, the Solution of this Obligation, to prevent Cruelty, and other Mischiefs; as he did to the *Jews*, by reason of the Hardness of their Hearts, allowing a Divorce. But without such Permission, he thinks, no Man ought to do it. And the Doctor observes farther, that God *commanded* no Man to divorce his Wife, but only *permitted* it in some certain Cases, and after such a Manner; namely, by *writing a Bill of Divorce, and putting it into her Hand*; for “ if this could have been done by Word of  
 “ Mouth, says he, it might have occasion'd  
 “ great Evil on both Sides; for the Woman  
 “ might have pretended, when she lik'd another better than her Husband, that she had  
 “ been divorc'd, and so might marry again;  
 “ and the Man might rashly have divorc'd his  
 “ Wife upon some little Quarrel, and so never  
 “ be in a Condition of having her any longer  
 “ as his Wife. To prevent which Divorces  
 “ upon such a sudden Pet, it was the Custom

“ to ask the Person who came for a Bill of  
 “ Divorce, before they deliver’d it to him,  
 “ whether his *Tea were Tea?* i. e. whether he  
 “ continu’d in a settled Resolution to put away  
 “ his Wife?” But the great Question is, whe-  
 ther this Permission excus’d this Divorce from  
 Sin, or only from Punishment? That it could  
 not excuse him that divorc’d his Wife, is ar-  
 gued, because our Saviour decides this Question  
 negatively; and that by reason of God’s own  
 Institution, founded upon Nature, *ver. 4, 5.*  
 and represents the Permission mention’d by  
*Moses*, as contrary to it, *ver. 8.* Now all  
 Transgression of divine Law is Sin, and  
 Christ saith this Permission was only granted  
 to them for the Hardness of their Hearts. Now  
 whatsoever is done upon that Principle, is sin-  
 ful, and especially since otherwise it follows,  
 that Divorces are not evil, but because for-  
 bidden; and so are only Sins against a positive  
 Command, and not forbidden because evil,  
 or because contrary to the Law of Nature;  
 and then, either Adultery can be no Sin against  
 the Law of Nature, or else Christ could not  
 truly say, that *he that putteth away his Wife,*  
*and marries another, committeth Adultery a-*  
*gainst her.*

“ But

“ But on the other Hand, says the Doctor  
 “ that this Permission excus’d those *Jews*  
 “ who made these Divorces according to the  
 “ Law, not only from Punishment by Man,  
 “ but also from Fault before God, and more  
 “ especially from being guilty of Adultery, is  
 “ evident from the Permission given to the  
 “ Woman thus divorc’d, to marry with ano-  
 “ ther, *Deut. xxiv. 2.* Which plainly shews  
 the Bond of Matrimony must by it be dis-  
 solv’d, since otherwise this must be a Permissi-  
 on to be an Adulterers. Secondly, from the  
 Prohibition of the Person thus divorcing her,  
 to receive her again as his Wife; which yet  
 he was bound to do, if the Bond of Matr-  
 mony still continued, and she was still in truth  
 his Wife: And because otherwise the whole  
 Commonwealth of *Judea*, by a divine Per-  
 mission, must be fill’d with Adulteries, and  
 with a spurious Offspring. In answer there-  
 fore to the former Arguments:

1<sup>st</sup>. It is granted, that our Saviour says these  
 Divorces were indeed contrary to the Equity  
 and genuine Intention of God’s primitive In-  
 stitution of Matrimony; but then it must be  
 added, that God by *Moses* dispens’d with his  
 own Institution, and that Christ only says, that  
 under his new Law this Dispensation should  
 not



not obtain; but that he would have his Disciples to act according to the primitive Institution.

2<sup>dly</sup>. In Answer to the second Argument, it may be said, that what was permitted to the *Jews*, by reason of the Hardness of their Hearts, was no less permitted, than what they were allow'd to do by reason of the Indifference of the Thing. Whatsoever therefore was the Cause of this Permission, 'tis certain that which was permitted, could not at the same Time be forbidden; and therefore could not be a Fault, or that which God would punish in them.

The Doctor adds, that Divorces and Polygamy are not against the Law of Nature, but only against a positive Command; for he cannot conceive that *Abraham, Jacob, David*, and other pious Men, would have had more Wives, or Wives and Concubines, had this been a plain Violation of the Law of Nature. Nor would God have so highly approv'd of them, had they liv'd in Adultery. He concludes therefore, that these are rather Sins against a positive or natural Directive, than a moral Precept, or Law of Nature: And that Christ prescrib'd a new Law, which had not before obtained among the *Jews*. But he holds,

holds, that wherever it is lawful to divorce or put away the Wife, there it is lawful to marry again.

But let us attend a little to Mr. *Milton's* Reasoning upon this Head.

Who held that there was much greater Reason for a Divorce, upon a Disparity or Disagreeableness of Tempers and Dispositions, than for Impotency, Idolatry, or even Adultery.

In the Introduction to his Discourse, he observes, that out of those Things which God intended for our Good, and to give us Joy and Content, we are ever hatching and contriving to our selves Matter of continual Sorrow and Perplexity.

“ For instance, says he, what was instituted  
“ more for the Solace and Delight of Man,  
“ than Marriage? and yet the misinterpreting  
“ some Scriptures, directed chiefly against the  
“ Abusers of the Law of Divorce given by  
“ *Moses*, hath chang'd the Blessing of Matrimony,  
“ not seldom into a familiar and co-inhabiting Mischief, at least into a drooping  
“ and disconsolate Household Captivity, without  
“ Refuge or Redemption. Thus wild  
“ Superstition, says he, hath run us from one  
“ Extreme of abus'd Liberty, into the other of  
“ unmerciful Restraint; for tho' God, in the  
“ first

" first ordaining of Marriage, taught us to what  
 " End he did it, in Words expressly implying  
 " the apt and chearful Conversation of Man  
 " with Woman, to comfort and refresh him  
 " against the Evil of solitary Life; not men-  
 " tioning the Purpose of Generation, till af-  
 " terwards, as being but a secondary End in  
 " Dignity, though not in Necessity; yet now  
 " if any two be but once handed in the  
 " Church, and have tasted in any Sort of the  
 " nuptial Bed, let them find themselves never  
 " so mistaken in their Dispositions, through  
 " any Error, Concealment, or Misadventure;  
 " that thro' their different Tempers, Thoughts,  
 " and Constitutions, they can neither be to  
 " one another a Remedy against Loneliness,  
 " nor live in any Union or Contentment all  
 " their Days; yet they shall, so they be but  
 " found suitably weaponed, to the least possi-  
 " bility of sensual Enjoyment be made, spight  
 " of Antipathy, to fadge together and com-  
 " bine, as they may to their unspeakable  
 " Wearisomness, and Despair of all sociable  
 " Delight in the Ordinance which God esta-  
 " blished to that very End.

" What a sore Evil, says he, is this, under  
 " the Sun, which the *Canonists*, by sticking  
 " too literally to the Text, have brought upon

" us;

“ us; doubtless, by the Policy of the Devil,  
 “ to make that gracious Ordinance become in-  
 “ supportable: That what with Mens not da-  
 “ ring to venture upon Wedlock, and what  
 “ with Men wearied out of it, all inordinate  
 “ License might abound: And that which our  
 “ Saviour preach'd only to the Conscience, is  
 “ by canonical Tyranny snatched into the  
 “ compulsive Censure of a judicial Court,  
 “ where Laws are imposed, even against the  
 “ venerable and secret Power of Nature's Im-  
 “ pression, to love, whatever Cause be found  
 “ to loath, which reflects both upon the ho-  
 “ nourable State of Marriage, the Dignity of  
 “ Man, and the Goodness of Christianity. And  
 “ he proceeds to lay down this Proposition.

*That Indisposition, Unfitness, or Contrariety  
 of Mind, arising from a Cause in Nature, un-  
 changeable hindering, and even likely to hinder  
 the main Benefits of conjugal Society, which are  
 Solace and Peace, is a greater Reason of Di-  
 vorce, than natural Frigidity; especially, if  
 there be no Children, and that there be mutual  
 Consent.*

For, says he, all Sense, and Reason, and  
 Equity, forbid that any Law or Covenant,  
 how solemn or strict soever, either between  
 God and Man, or Man and Man, though of  
 God's

*God's joining, should bind against a prime and principal Scope of its own Institution, and of both or either Party covenanting.*

From these Words, *It is not good that Man should be alone, I will make him an Help-meet for him; less,* says he, *cannot be concluded, than that in God's Intention, a meet and happy Conversation, is the chiefest and the noblest End in Marriage, there being no Expression so necessarily implying carnal Knowledge, as the Prevention of Solitude to the Mind and Spirit of Man.* That it is also a greater Blessing from God, more worthy so excellent a Creature as Man, and more for the Honour of Marriage, that the Solace and Satisfaction of the Mind should be regarded and provided for, before the sensitive Pleasure of the Body.

That we are taught in the *Liturgy*, that we must not marry to satisfy the fleshly Appetite, like brute Beasts that have no Understanding; but the *Canon* runs; as if it dreamt of no other Matter, than such an Appetite to be satisfied; for if it happen that Nature hath stopt or extinguished the Veins of Sensuality, that Marriage is annulled: But tho' all the Faculties of the Understanding and conversing part, after Trial appear to be so ill, and so averfely met, thro' Nature's

Nature's unalterable Working, as that neither Peace, nor any sociable Contentment can follow, it is as nothing, the Contract shall stand as firm as ever, betide what will: What is this but secretly to instruct us, that however many grave Reasons are pretended for the married Life, yet that nothing indeed is thought worth Regard therein, but the Satisfaction of an irrational Heat, which cannot be but ignominious to the State of Marriage, dishonourable to the undervalued Soul of Man, and even to Christian Doctrine it self? While it seems more moved at the disappointing of an impetuous Nerve, than at the Grievance of a Mind unreasonably yoked; and to place more of Marriage in the Channel of Concupiscence, than in the pure Influence of Peace and Love, whereof the Soul's lawful Contentment is the only Fountain.

And if it be objected, that the Disposition ought seriously to be considered before; let them know again, that for all the Wariness that can be used, it may yet befall a discreet Man to be mistaken in his Choice; the soberest and best governed Men are least practised in these Affairs; and who knows not that the bashful Muteness of a Virgin may oft times hide the Unliveliness and natural Sloth, which

is really unfit for Conversation? Nor is there that Freedom of Access granted or presumed, as may suffice to a perfect discerning, till too late; and where any Indisposition is suspected, what more usual than the Persuasion of Friends, that Acquaintance, as it increases, will amend all? And lastly, it is not strange that many who have spent their Youth chaste, are in some Things not so quick sighted, while they hast too eagerly to light the nuptial Torch: Nor is it therefore, reasonable that for a modest Error, a Man should forfeit so great a Happiness, and no charitable Means left to release him. They who have lived most loosely, by Reason of their bold accustoming, prove most successful in their Matches; because their wild Affections unsettling at Will, have been as so many Divorces, to teach them Experience. When as the sober Man honouring the Appearance of Modesty, and hoping well of every social Virtue, under that Veil, may easily chance to meet, if not with a Body impenetrable, yet often with a Mind to all other due Conversation inaccessible; and to all the more estimable and superior Purposes of Matrimony useless, and almost lifeless; and what a Solace, what a fit Help, such a Consort would be through  
the

the whole Life of a Man, is less Pain to conjecture, than to have experienced?

He adds, the supream Dictate of Charity would hereby be many Ways neglected and violated; and that by St. *Paul's* Words, *It is better to marry than to burn*, is not meant the mere Motion of carnal Lust, or the Good of sensitive Desire: *God*, says he, *does not take Care for such Cattel*; but by burning, is meant that Desire which God put into *Adam* in *Paradise*, before he knew the Sin of Incontinence, the Desire and Longing to put off an unkindly Solitariness, by uniting another Body, but not without a fit Soul to his, in the chearful Society of Wedlock; which if it were so needful before the Fall, when Man was much more perfect in himself; how much more is it needful now, against all the Sorrows and Casualties of this Life, to have an intimate and speaking Help, a ready and reviving Associate in Marriage, whereof who misses, by chancing on a mute and spiritless Mate, remains more alone than before, and in a burning less to be endured, than that which is fleshly, and more to be considered; as being more deeply rooted even in the faultless Innocence of Nature? As for that other burning, which is but as it were the Venom of a lusty and overbounding



Concoction, strict Life and Labour, with the Abatement of a full Diet, may keep that low and obedient enough; but this pure and more inbred Desire of joyning to it self, in conjugal Fellowship, a fit conversing Soul, (which Desire is properly called Love) is stronger than Death, as the Spouse of Christ thought; many Waters cannot quench it, nor can the Floods drown it. This is that rational Burning, that Marriage is to remedy, not to be allayed with Fasting, nor with any Penance to be subdued; which how can he assuage, who by Mishap hath met the unmeetest and most unsuitable Mind? Who hath the Power to struggle with an intelligible Flame, not in *Paradise* to be resisted?

Such an one forbidden to divorce, is in effect forbidden to marry, being compelled to greater Difficulties than in a single Life: And he who wanting his Due in the most native and human End of Marriage, and therefore seeks to part, is one who highly honours the married State, and would not stain it; for not to love, and yet retain, is the greatest Injury to a gentle Spirit; and the Reasons which now move him to a Divorce, are equal to those which first enclin'd him to marry.

And

And it is to be feared, if he must still be bound by a deaf Rigour, when he finds his just Expectation defeated, he will begin, even against Law, to cast about where he may find his Satisfaction more compleat, unless he be something heroically virtuous (which are not the common Lump of Men) when he shall find himself bound fast to an uncomplying Discord of Nature; or as it often happens, to an Image of Earth and Flegm, with whom he looked to be the Partner of a sweet and gladsome Society; and sees withal, that his Bondage is now inevitable, he will be ready to despair and mutiny against divine Providence: And this doubtless is the Reason of those Lapses, and that melancholy Despair, which we see in many wedded Persons, though they understand it not, or pretend other Causes, because they know no Remedy.

He observes farther, that Marriage is a Covenant, the very being whereof consists not in a forced Cohabitation, and counterfeit Performance of Duties, but in unfeigned Love and Peace: That God commands in his Law, more than once, and by his Prophet *Malachy*, (as *Calvin* and the best Translators read) *That he who hates, let him divorce*; that is, he who cannot love or delight in his Wife; and

therefore concludes, that he who can receive nothing of the most important Helps in Marriage, and continues to grieve whom he would not, and is no less grieved; that Man ought, even for Love and Peace sake, to move a Divorce, upon good and liberal Conditions; and not prophane that Mystery of Joy and Union, with a polluting Sadness and perpetual Distemper. That every Christian Duty ought to be seasoned and set off with Cheerfulness, which in a thousand outward and intermitting Cares may be done; but in such a Bosom Affliction as this, which grinds the very Foundations of his inmost Nature; when he shall be forced to love against a Possibility, and to use Dissimulation against his Soul in the perpetual and ceaseless Duties of a Husband; doubtless, his whole Duty of serving God must needs be blurred and tainted with a sad Unpreparedness and Dejection of Spirit, wherein God has no Delight, and the whole Worship of a Christian Man's Life shall languish and fade away, beneath the Weight of an immeasurable Grief and Discouragement. An Idolatress was to be divorced, lest she should alienate her Husband's Heart from the true Worship of God; and what Difference is there, whether she pervert him to Superstition

perdition, by enticing Sorcery, or disenable him in the whole Service of God, thro' the Disturbance of her unhelpful and unfit Society, and so drive him, at last, thro' Murmuring and Despair, to Thoughts of Atheism? Therefore, by the united Force of the whole Decalogue, she ought to be discarded, unless we must set Marriage above God, and Charity; which is a Doctrine of Devils, no less than forbidding to marry.

He observes further, that if either Party be found contriving against the other's Life, they may be sever'd by Divorce: Then why not, says he, where the Life of one of the Parties is in apparent Hazard, by Grief and Anxiety? And that the remaining in that State, instead of being the Solace of his Life, tends evidently to his Destruction? And what is Life, without the Vigor and sprightly Exercise of Life? How can he be useful, either in a private or publick Capacity, who is thus dejected, and left to moulder away in Heaviness, for the superstitious and impossible Performance of an ill-driven Bargain?

He insists that our Saviour does not reprehend Divorces, but the Abuse of them; for he says, not many Verses before, that he came not to abrogate one Jot or Tittle of the Law,

and denounces a Woe against them that teach so. But if our Saviour's Words strike at all Divorce, except for Adultery, then this Law of *Moses*, *Deut.* xxiv. 1. is not only repeal'd and annull'd, against the Promise of Christ, and his known Profession, not to meddle in Matters judicial, but the very Substance and Purport of that Law is contradicted, and convinc'd both of Injustice and Impurity; as having authoriz'd and maintain'd legal Adultery by Statute.

Others hold that there was no Law for Divorce, but only a Dispensation; which he says is contrary to the Words of Christ, who himself calls it a *Law*, *Mark* x. 5. But admitting it to be a Dispensation, it is a certain Rule, that as long as the Cause remains, the Dispensation ought to do so too. It should be shewn therefore, either from the Nature of the Gospel, or of Man, why this Dispensation should be made void. The Gospel, indeed, exhorts to the highest Perfection, but bears with Weakness and Infirmary, more than the Law: And the Nature of Man is as weak, and yet as hard, and that Weakness and Hardness as unfit and as unteachable to be harshly dealt withal as ever, and the Gospel is a Covenant-revealing Grace, not commanding a new Morality.

He

He observes farther, that when all other Creatures were fitly associated, and brought to *Adam*, the Deity seems to be in some Care and deep Thought, because there was not yet found a Helpmeet for Man: And can we, says he, so slightly pass over and depress the all-wise Purpose of a deliberating God, as to think this Consultation produc'd no other Good for Man, but to join him with an accidental Companion of Propagation? And a far less Good she will be found, if she must at all Adventures be fastned upon him eternally; but 'tis plain, this Promise of God, to make him an Helpmeet, is the only Cause that gives Authority to this Command of not divorcing; therefore she who naturally and perpetually is no Helpmeet, can be no Wife; which clearly takes away the Difficulty of dismissing such a one.

If it be said that this Law of Divorce was not a moral, but a judicial Law, and so was abrogated; he answers, that rather it was not abrogated, because judicial; which Law the Ministry of Christ came not to deal with; and who put it in Man's Power to exempt this Law, when Christ speaks in general of not abrogating one Jot or Tittle? and especially not that of Divorce, because it follows a-

mong those Laws, which he promis'd expressly not to abrogate, but to vindicate from abusive Traditions? And it is observable, *Mat. v.* he there cites not the Law of *Moses*, but the licentious Gloss which traduc'd the Law: Therefore what he cited, that he abrogated, and not only abrogated, but disallow'd and flatly condemn'd; which could not be the Law of *Moses*, for that had been foully to rebuke his great Servant. To abrogate a Law made with God's Allowance, had been not only to tell us that such a Law was now to cease, but to refute it with an ignominious Mark of civilizing Adultery; and casts the Reproof which was meant only to the *Pharisees*, upon him who made the Law: And if that be judicial which belongs to civil Courts, this Law is less judicial than nine of the ten Commandments; for Antiquaries affirm, that Divorces proceeded among the *Jews* without the Knowledge of the Magistrate, only with Hands and Seals under the Testimony of some Rabbies to be there present; and it was indeed a pure moral œconomical Law, and was left to a Man's own Arbitrament, to be determin'd betwix God and his own Conscience: And that Power which Christ never took from the Master of the Family, but rectify'd only to a right and

way

wary Use at Home, that Power the undiscerning Canonist hath improperly usurp'd into his Court, and loaded with a thousand trifling Impertinencies, which fill the Life of Man with serious Trouble and Calamity: And admitting it was of old a judicial Law, it is not the less moral, for that being conversant, as it is about Virtue and Vice, our Saviour disputes not here the Judicature, but the Morality of Divorce, whether it be Adultery or no. If he touch the Law of *Moses* at all, therefore he touches the moral Part thereof; which is absurd to imagine, that the Covenant of Grace should reform the exact and perfect Law of Works, eternal and immutable: And if he touch not the Law at all, then is not the Allowance thereof disallow'd to us; but still they resort to the primitive Institution, and would have us re-enter Paradise, against the Sword that guards it. But this Text in *Genesis* contains the Description of a fit and perfect Marriage, with an Interdict of ever divorcing such a Union; but where Nature never really join'd the Parties, but vehemently seeks to part, it cannot be there conceiv'd that God forbids it; nay, he commands it, both in the Law, and the Prophet *Malachi*, which is to be our Rule. This therefore is the true Scope of  
our



our Saviour's Will, that he who looks upon the Law concerning Divorce, should look also back upon the first Institution, that he may endeavour what is perfectest: And he that looks upon the Institution, should not refuse, as sinful and unlawful, those Allowances which God affords him, in his following the Law; lest he make himself purer than his Maker, and presuming above his Strength, slip into Temptations irrecoverably.

For it is wonderful, that in all those Decrees in the Law concerning Marriage, God should never once mention the prime Institution, to dissuade them from divorcing; and that he should forbid smaller Sins, as opposite to the Hardness of their Hearts, and let this adulterous Matter of Divorce pass ever unprov'd:

*Beza's* Opinion is, that a politick Law may regulate Sin. It may bear indeed, I grant, with Imperfection, for a Time, as those Canons of the Apostles did, in ceremonial Things; but as for Sin, the Essence of it cannot consist with Rule; and if the Law descend to regulate Sin, and not to take it utterly away, it necessarily confirms and establishes Sin. If we give way to politick Dispensations of lewd Uncleaness, the first good Consequence of such a  
Relax,

Relax, will be the justifying of Papal Stews, join'd with a Toleration of epidemick Whoredom: Justice must revolt from the End of her Authority, and become the Patron of that whereof she was created the Punisher. And if Divorce was granted, as some say, not for Men, but to release afflicted Wives, surely it is not only a Dispensation, but a most merciful Law; and why it should not be still in Force, being wholly as needful as formerly, what can be the Cause, but senseless Cruelty!

But it is said, they must be *one Flesh*; which will be found to import no more, but only to make legitimate and good the carnal Act; which else might seem to have something of Pollution in it: And infers thus much over, that the fit Union of their Souls be such as may even incorporate them to Love and Amity; but that can never be, where no Correspondence is of the Mind: Nay, instead of being one Flesh, they will be rather two Carcasses, chain'd unnaturally together; or, as it may happen, a living Soul bound to a dead Corps; a Punishment too like that inflicted by the Tyrant *Mezentius*, so little worthy to be receiv'd, as that Remedy of Solitude which God meant us. Since we know it is not the joining of another Body will remove Solitude,  
but

but the uniting of another compliable Mind, it is no Blessing, but a Torment, nay, a base and brutish Condition, to be one Flesh, unless where Nature can in some measure fix a Unity of Disposition.

Lastly, 'tis said, *whom God hath join'd, none should put asunder.* But when may God be said to join? When the Parties and their Friends consent? No, surely; for that may concur to the lowdest Ends. Is it when Church Rites are finish'd? Neither; for the Efficacy of those depends upon the suppos'd Fitness of either Party. Is it upon carnal Knowledge? Least of all; for that may join Persons whom neither Law or Nature dare join. No; it can be only then when the Minds are fitly dispos'd and enabled to maintain a chearful Conversation, to the Solace and Love of each other; according as God intended and promis'd, in the very first Foundation of Matrimony, when he said, *I will make him a Helpmeet for him*; for surely, what God intended and promis'd, that only can be thought to be of his joining; and not the contrary. So likewise the Apostle witnesseth, 1 Cor. vii. 15. that in Marriage God hath call'd us to Peace. And doubtless, in what respect he hath call'd us to Marriage, in that also he hath join'd us. The  
rest,

rest, whom either Disproportion, or Deadness of Spirit, or something distastful or averse in the immutable Bent of Nature, renders unconjugal, Error may have join'd, but God never join'd, against the Meaning of his own Ordinance. And if he join'd them not, then is there no Power above their own Consent, to hinder them from unjoining, when they cannot reap the soberest Ends of being together in any tolerable Sort. Neither can it be said properly, that such Twain were ever divorc'd, but only parted from each other, as two Persons unconjunctive, and unmarriageable together. But if whom God hath made a fit Help, Prowardness or private Injuries have made unfit, that being the Secret of Marriage, God can better judge than Man; neither is Man indeed fit or able to decide this Matter. However it be, undoubtedly a peaceful Divorce is a less Evil, and less in Scandal, than a hateful hard-hearted and destructive Continuance of Marriage, in the Judgment of *Moses*, and of Christ, that justifies him in chusing the less Evil; which if it were an honest and civil Prudence in the Law, what is there in the Gospel, forbidding such a kind of legal Wisdom, tho' we should admit the common Expositors?

Upon

Upon the Words, *Whoſoever ſhall put away his Wife, except it be for Fornication, and ſhall marry another, committeth Adultery*; *Origen* obſerves, that Chriſt nam'd Adultery, rather as one Example of other like Caſes, than as one only Exception, which is frequent not only in human, but divine Laws: And from the Maxims of the Civil Law, he ſhews, that even in ſharpeſt penal Laws, the ſame Reason hath the ſame Right; and adds, that Marriage was not ordain'd only for Copulation, but for mutual Help and Comfort of Life.

And it is a ſtated Rule, that Exceptions which ariſe from natural Equity, are included under general Terms; and tho' our Saviour makes Mention only of Fornication, as a juſt Cauſe of Divorce, from whence the Canoniſts hold, that nothing but actual Fornication, prov'd by Witneſſes, can warrant a Divorce; yet the Chriſtian Emperors, *Theodoſius* the Second, and *Juſtinian*, who were famous for Wiſdom and Piety, decreed, that the Wife might be divorc'd, if ſhe obſtinately perſiſted in any thing that gave open Suſpicion of her adulterizing; as the wilful haunting of Feaſts and Entertainments of Men, who were not of her Kindred; the lying out of her Husband's Houſe,  
without

without reasonable Cause; the frequenting Theatres, against her Husband's Consent; the endeavouring to prevent or destroy Conception, &c. And St. *Jerome* says, where Fornication is suspected, the Wife may lawfully be divorc'd. Not, says Mr. *Milton*, that every Motion of a jealous Mind should be regarded, but that we should not be tied down to strict legal Proof in this Matter; for the Law is not able to judge of these Things, but by the Rule of Equity.

He shews also, out of *Grotius*, that Fornication is taken in Scripture for such a continual headstrong Behaviour, as expresses a plain Contempt of the Husband; which he proves from *Judges* xix. 2. where the Levite's Wife is said to have plaid the Whore against him; which *Josephus*, and the *Septuagint*, with the *Chaldee*, interpret only of Stubbornness and Rebellion against her Husband; and, say the Rabbies, had it been Whoredom, a *Jew* and a *Levite* would have disdain'd to fetch her again; to which Mr. *Milton* adds, that had it been Whoredom, she would have chosen any other Place to run to than her Father's House, it being so infamous for a *Hebrew* Woman to play the Harlot, and so opprobrious to her Parents; and observes from this and other Places

of Scripture, that there is hardly a Text but must be read with Limitations and Distinctions, to be rightly understood; that Christ delivers no full Comments, or continued Discourses, but scatters the heavenly Grain of his Doctrine here and there, which requires a skilful and laborious Gatherer, who must compare the Words he finds with other Precepts, with the End of every Ordinance, and with the general Analogy of Evangelick Doctrine; otherwise many particular Sayings will seem strange and repugnant, and the Church must offend in granting a Divorce for Frigidity, which is not excepted with Adultery. He observes farther, that St. *Paul* himself enlarges the Construction of these Texts, by adding a Case wherein a Person deserted, which is something less than divorc'd, may marry again; and that St. *Paul* plainly leaves a further Liberty, for Christian Prudence to determine in Cases of like Importance, when he says that a Brother or Sister is not under Bondage in *such* Cases:

And he observes, that the Parliament, and all the Clergy of *England*, allow'd of King *Henry VIII.* his being divorc'd from *Anne of Cleve*, upon the account of the Dislike and Antipathy the King entertain'd to her Person  
and

and Conversation, after he had been married to her half a Year: And concludes with advising those, who, notwithstanding what he had offer'd on this Head, will still stick to the Letter, that they should go and learn what these Words of our Saviour mean, *I will have Mercy, and not Sacrifice.*

That great and good Emperor *Justinian*, as Mr. *Milton* observes, among the rest of his Constitutions, enacted one in relation to Divorces, which comes up to what Mr. *Milton* would have introduc'd into our Laws. In this Constitution he recommends Marriage as a venerable Institution, in respect of the Procreation of Children, without which, says he, all Countries and Cities must at length be depopulated, and become desolate; all Commonwealths must come to nothing. Therefore he wishes it were always so fortunate that it need never be dissolv'd; but forasmuch, says he, as among such Multitudes of People it's impossible but that sometimes vehement and irreconcilable Differences must arise: He therefore thinks fit to allow a Remedy for this Distemper, especially in such a Case where the Hatred betwixt Man and Wife are so great that there is no Means to be found for a Reconciliation. And he observes, that the an-



tient Laws permitted such to be divorc'd, provided it were done by Consent of both Parties. He goes on, and recites, that afterwards that most sacred Prince his Father, (who in Piety and Wisdom excell'd all Princes that ever reign'd) out of his own benign and constant Temper and Inclination, and a Sense of the miserable and pusillanimous Condition of others, made a Law that forbad Marriages to be dissolv'd, though by Consent, which he wish'd heartily might remain in its full Force and Vigour : But many, he says, had address'd themselves to him, and signify'd the great Hatred and Aversion they had to the matrimonial Bands wherewith they were mutually incumbred, and (which is worse, and ought seriously to be lamented) great Bickerings, Quarrels and Strifes had already arisen, as both Parties complain'd, in way of Accusation ; and therefore desir'd their Marriages might be null'd although they could not alledge any Causes or Reasons allowable in Law for so doing. He tells us, he had sometimes lovingly admonish'd, and sometimes threatned them, endeavouring to compose these Differences, and end these Distractions in an amicable Way, not suddenly condescending to what they desir'd : But he  
gain'd

gain'd nothing thereby, it being a Thing exceeding difficult to reconcile such as have conceiv'd an inveterate Hatred; that the Breaches grew still wider, and some proceeded from Quarrels to Conspiracies, and at length it came to Poysonings and other mischievous Devices; so that sometimes it happen'd that Children, which ought to be Pledges of mutual Love, could not reduce them to any good Understanding.

For as much therefore, says he, as these Things are not at all convenient for the Times wherein I reign, I betake my self to this present Constitution, whereby he decrees and ordains, *That it be lawful, as formerly it was, to dissolve Marriages by Consent*, and repeals what his Father had ordain'd: For, says he, if mutual Affection causeth Matrimony, with good Reason the contrary Inclination, by mutual Consent, should dissolve it; provided this be declar'd by Bills of Divorce, [*not by Process in a Court of Justice*] sent for the same Purpose.

The Case of Sir George Downing and Mrs. Forrester was not much unlike that put by Mr. Milton. In both an Unsuitableness and Disagreeableness of Temper is urg'd as the principal Motive for obtaining a Divorce;

that which distinguishes them is this: Mr. *Milton* supposes the married Pair to have cohabited some Time before this Antipathy and Aversion is discover'd: In Sir *George's* Case the Aversion of both Parties seems to be such, that they never could condescend to cohabit together at all: But the Management of the Argument by Sir *George's* Counsel being something new, and different from Mr. *Milton*, or any that I can find ever went before them, I shall here present the Reader with that Case, and the Substance of what his Counsel insisted on to induce the Lords to grant a Divorce.

“ 1. *G. D.* without the Knowledge and  
 “ Consent of his Father, (then alive, but  
 “ accounted not of sound Judgment) was  
 “ at the Age of fifteen, by the Procure-  
 “ ment and Persuasion of those in whose  
 “ keeping he was, marry'd, according to the  
 “ Church Form, to *M. F.* of the Age of  
 “ thirteen.

“ 2. This young Couple was put to Bed  
 “ in the day-time, according to Custom, and  
 “ continued there a little while, but in the  
 “ Presence of the Company, who all testi-  
 “ fy they touch'd not one the other; and af-

“ ter

“ter that they came together no more; the  
 “young Gentleman going immediately a-  
 “broad, the young Woman continuing with  
 “her Parents.

“3. *G. D.* after three or four Years  
 “Travel return’d home to *England*, and be-  
 “ing solicited to live with his lawful Wife,  
 “refus’d it, and frequently and publicly de-  
 “clar’d he never would compleat the Mar-  
 “riage.

“4. Fourteen Years having pass’d since the  
 “Marriage Ceremony was perform’d, and  
 “each Party having (as is natural to think)  
 “contracted an incurable Aversion each to  
 “the other, is very desirous to be set at Li-  
 “berty; and accordingly Application is made  
 “to the Legislative Power, to dissolve this  
 “Marriage, and to give each Party Leave,  
 “if they think fit, to marry elsewhere.

The Reasons against such Dissolution are,  
 “*First*, That each Party was consenting  
 “to the Marriage, and was old enough to  
 “give such Consent according to the known  
 “Laws of the Kingdom, the Male being  
 “fifteen Years old, the Female thirteen;  
 “whereas the Years of Consent are, by Law,  
 “fourteen and twelve.

“ 2<sup>dly</sup>. They were actually married accord-  
 “ ing to the Form prescribed by the Church  
 “ of *England*, the Minister pronouncing those  
 “ solemn Words us’d by our Saviour, *Those*  
 “ *whom God hath joined let no Man put*  
 “ *asunder*; they are therefore Man and Wife  
 “ both by the Laws of God and of the  
 “ Land; and since nothing but Adultery can  
 “ dissolve a Marriage, and no Adultery is  
 “ pretended here, the Marriage continues in-  
 “ dissoluble.

To these Reasons the Counsel for Sir  
*George* and the Lady answer’d, “ They grant-  
 “ ed, that by the general Opinion of the  
 “ Fathers of the *Latin* Church, and of the  
 “ Schoolmen and Commentators, a Marriage  
 “ was indissoluble unless in the Case of A-  
 “ dultery; and even in that Case they ob-  
 “ serv’d the innocent Party was deny’d the  
 “ Liberty of marrying again, altho’ legally  
 “ divorc’d, which Prohibition render’d such a  
 “ Divorce of very little Value. This, they  
 said, they mentioned to shew how far the  
 Reverence of Authorities and great Names  
 might carry Men, who tamely submitted  
 to their Determinations, and did not make  
 use of their own Reason.

And

And they said, " That the Years of Con-  
 " sent were not fix'd to fourteen, or twelve,  
 " either by Nature, Reason, or the Law of  
 " God, but only by the positive Laws of the  
 " Land, which might be chang'd to Morrow ;  
 " and that it seem'd unreasonable to give  
 " Children a Power of disposing of their  
 " Persons at an Age when they werẽ not suf-  
 " fer'd to dispose of five Shillings without  
 " Direction and Advice : But admitting that  
 " the Time fix'd by Law was reasonable and  
 " fitting for ninety nine People in a hundred,  
 " yet if the hundredth Person was aggriev'd  
 " to Death, or worse than Death by such a  
 " Law, where was the Hindrance, where  
 " the Mischief of declaring the hundredth  
 " Person not to be bound by that Law ?  
 " That human Laws could never provide  
 " for every Exigence. No Foresight was  
 " sufficient for all Accidents ; and there-  
 " fore Power was lodg'd in every Govern-  
 " ment to cure the Evils it could not fore-  
 " see. To that Power therefore they had Re-  
 " course , and pray'd Relief against a Law  
 " which, however just and fitting it might  
 " be thought in it self, and beneficial to others,  
 " bound these Partics to nothing but Misery,  
 " and truly kill'd according to the Letter.

“ They were at Age indeed, according to  
“ Law, but wanted that Maturity which the  
“ Law supposes and requires in People of  
“ twelve and fourteen, when it makes them  
“ capable of marrying at those Years. They  
“ consented, 'tis true, with their Tongues,  
“ and pronounc'd the solemn Words, whereby  
“ they mutually deliver'd up themselves to  
“ each other. They did as they were bid to  
“ do, and said what their Parents and the  
“ Priest commanded them to say, and would  
“ have given away their Fortunes, and their  
“ Liberties and every Thing they had, had  
“ they been bid to do so. That they came  
“ together to contract and consent to Marriage  
“ (as they protested) without so much as the  
“ Desire or Appetite of being married, with-  
“ out so much as knowing what it was they  
“ were to contract; for they consented to  
“ give the Use and Dominion of their Bo-  
“ dies to each other for Life, without so much  
“ as an Ability of making good their Pro-  
“ mises and Engagements.

They admitted, that the solemn Promise  
was pronounc'd in solemn Manner by the  
Priest, and the Children said after him as  
they were bid, and then the Knot was ty'd,  
that nothing can loose but Death: But was  
there

there any Thing so like a Charm as this? There was not any Contract in the World besides but might be dissolv'd by the free Consent of the Parties, if without Prejudice to a third ; and tho' it were confirm'd by the most solemn Oaths, this will not alter the Case ; for the Oath must follow the Nature of the Promise, and when the Promise is releas'd the Oath is so also.

But the Popish Casuists say Marriage is a great Sacrament , and therefore indissoluble. The Protestant Divines say it is no Sacrament, but an Ordinance of God instituted in Paradise, and signifies the mystical Union between Christ and his Church. And the Promise is made with all possible Solemnity in the Presence of God ; in the Church before the Priest and all the Company, and confirm'd with the Words of Christ ; and a Promise made in so solemn a Manner can never be retracted or dissolv'd.

To which they answer'd, that a Man would indeed be more asham'd to break a Promise made at Church, and before a great Company, than a Promise made to a Friend alone at his own House ; but he was no less oblig'd in Conscience to keep his private Promise than his publick Promise ; for the  
Obligation



Obligation did not arise from the Solemnity of Words, and Place, and Company, but from the free and voluntary Promise which a Man makes, and the Right he thereby gives to another. And if *Caius* and *Caia* (two Heathens) had given their Consents to be Man and Wife in their Father's Parlour, they were thereby as truly Man and Wife, and the Marriage as innocent, and as much the Ordinance of God, as if the Marriage had been solemniz'd at St. *Paul's*, according to the Common Prayer by the Archbishop himself, repeating those sacred Words of Christ, *Whom God has join'd, let no Man put asunder.*

It was necessary that *Caius* and *Caia* should express their Consent by Words and Signs appointed by the Laws of their Country, and so must a Jewish Pair, and so likewise Christians; but this was common to them all, that both Parties must be of Age and at Liberty to consent and actually consent to give to each other the Use and Dominion of each other's Body exclusively to all the World besides, as long as they both live. This is that which makes the Marriage Contract valid and obliging, all beyond is Matter of Ceremony, Decency and Prudence, and order'd by the Legislative Power of every Nation as they  
see

see fit; and these are binding as to the Doweries of the Wives, the Legitimation of Children and their inheriting Estates and Honours; but *nothing is of the Essence of Matrimony but a free mutual Consent of both Parties, being of Age and Ability to contract.*

They farther urg'd, that this Marriage could not be a valid Marriage, not only because the Parties were not of Age to understand what they did, but because, after so many Years, it had never been consummated. That the Love and Desire which Men and Women had for each other, was implanted in the Hearts of all by God who made them; and was therefore as innocent an Appetite as any other; and it had, as every other Appetite, its proper Satisfaction provided for it by the good Creator, and when it fixes on its proper Object, is satisfy'd as innocently as the Desire of Meat, and Drink, and Sleep can be. That Marriage was fixing this Desire upon the proper Object; and that this Desire was never to be satisfy'd with Innocence, but in the Marriage Bed. The End of Marriage was the Satisfaction of this Appetite. This was the End of making them Male and Female, and this the only Way of their becoming one Flesh: And therefore until the End

was answer'd, where it could be answer'd, Marriage was not perfect and complet. These Parties were never yet one Flesh, and so never conjoin'd by God, in the true Meaning of these Words, *Whom God hath join'd, let no Man put asunder*; and therefore might as yet be put asunder by Men.

In Cases of Impotence, the Marriage was accounted null from the Beginning, altho' the Parties were of full Age, gave a free Consent, and were married with all Formalities, because they could not become *one Flesh*; and where there is an utter Aversion to the Consummation of Marriage, in both Parties, surely there is as good a Reason for a Divorce, as when there is an Inability in one Party, which never fails of procuring it. As to the Objection, that *Joseph* and the blessed Virgin were call'd in holy Scripture Man and Wife, altho' they never came together till the holy Child was born, and, as Tradition says, never after; it is to be observ'd, that the same Scriptures which call *Joseph* the Husband of the blessed Virgin, do also call *Joseph* the Father of her Son: But this Marriage was to save Appearances, to cover both the Mother and the Son from the Reproaches of ignorant malicious People. *Joseph* was the suppos'd Husband of the blessed Virgin,

Virgin, and the suppos'd Father of her blessed Son, and under Cover of that Relation was to take upon him the Care and Protection of them both; but will any Man infer from hence, that this was a compleat Marriage, according to God's original Institution? Or can this be drawn into Example? *Joseph* and *Mary* are said to be married, altho' they never did compleat that Marriage, nor ever must compleat it: Will this prove that a Marriage Contract is a compleat Marriage, between any other Man and Woman, altho' they proceed no further? The Ends of this particular Marriage were fully answer'd by a Marriage Contract, but the Ends of Marriage in general, as it is God's Ordinance, neither are nor can be satisfy'd by such a Contract only.

But it is further objected, that a Woman betroth'd or espous'd to a Man was to be ston'd to Death, by the Law of *Moses*, as an Adulteress, if she admitted another to her Bed; which shews, that the Validity of Marriage proceeds from the mutual Consent of the Parties.

To which it is answer'd, that true it is the Marriage Contract does give a Man a Right to every thing contracted for; it gives the Husband a Right to his Wife's Person, her

Fortune,

Fortune, and even her Reputation, which the Man has a Right to vindicate; for she is really his, and he is hers: He is as much married to her the first Morning, to all Intents and Purposes which human Laws can take Cognizance of, as he is a Week after; and if she give away her self to another before her Husband has touch'd her, she is certainly an Adulteress; she has given away what was his, and broken her Faith and Contract, and is punishable by the Laws.

But what is it the Parties contract for? Is it not to give each other the Use and Dominion of their Bodies? Without this the End of Marriage is not answer'd, and consequently till then the Marriage is not compleat.

And whereas it was further objected, that the Church allows old People to marry, and accounts their Marriages good, altho' there is no Hope or Likelihood of Children, and therefore Marriage may be compleat by Contract only, without Consummation. It is answer'd, that the Church neither does or can determine when People are too old to marry, but leaves every one to their own Discretion. Nor does it follow, that because a Marriage is compleat which is not consummated, because it cannot by reason of old Age, that  
therefore

therefore a Marriage which may be consummated every Day, and yet is not, is a compleat Marriage?

Besides, there are three Ends of Marriage mentioned in the Liturgy; the first, is the Procreation of Children; the second, a Remedy against Sin; and the third, mutual Society, Help and Comfort. If the first of these cannot be answer'd, the second may, and so may the third, where the other two cannot; and this is sufficient, where Nature has render'd the other impracticable. But it can never be accounted a compleat Marriage, if either of the Parties refuse to consummate it, where there is an Ability of Performance.

As to those Passages of Scripture, which allow a Man to put away his Wife for no Cause but Adultery, they refer plainly to such Marriages as have been compleated and consummated; and therefore can be no manner of Objection against a Bill of Divorce in this Case.

Notwithstanding these Arguments were manag'd by the Council for the Divorce, with all the Dexterity and Address imaginable, their Lordships thought fit to sling out the Bill; tho' if I am rightly inform'd, it was rejected by a very small Majority; some say there was

but

but one casting Voice, which turn'd the Scale, and that had not my Lords the Bishops bestir'd themselves, it had infallibly pass'd; either they were apprehensive, that if a Precedent of this Nature was made, it must lessen their Influence, and be prejudicial to their Jurisdiction, to whose Courts Causes of this Nature had hitherto usually been referr'd; or they were really afraid, as they gave out, that it might tend to a Dissolution of all the Marriages that were ever made; for if when People out of a Desire of Change, Hopes of bettering their Fortunes, or upon such like Motives, might be once permitted to part, there would be no End of applying to the Legislature; half the married Couples in *England* would probably pretend themselves to be aggriev'd in like Manner, and pray a Divorce; which must create the utmost Confusion in Families.

But if there was a Power lodg'd in some Hands, to give Relief in Cases where it is apparent the Parties can have no tolerable Satisfaction in the Society of one another, (which is one of the principal Ends of Marriage,) where, instead of being a mutual Help and Comfort to one another, they are a perpetual Plague and Vexation, in  
somuch

ſomuch that the Parties are often driven to Deſpair, or to conſpire againſt one another's Lives, where wou'd be the Immorality of ſuch an Indulgence? And if no Court can or will take Cognizance, or give Relief in ſuch Caſes, there will poſſibly be found but few, very few Perſons, who will not attempt to relieve themſelves: Nature will rebel againſt Principle, as has been obſerv'd; and perhaps ſome will think they may retain their Principles, and yet relieve themſelves too; for where there is a Neceſſity in the Caſe, where the Calls of Nature are irreſiſtible, it will not be thought a Crime of the worſt Complexion to obey, if it be any Crime at all; and where it is evident the Thing will be done without Authority, if Governors reſuſe to intermeddle, and that People will judge for themſelves, where there is no Body to judge for them, were it not as well if their Governors would reſume the Conſideration of ſuch Matters, and regulate what it is not in their Power to prevent?

And it is held by ſome to be a great Abſurdity to forbid People to marry who are divorc'd, even for Adultery: Do they, ſay theſe Gentlemen, really acknowledge that the Calls of Nature in ſome are irreſiſtible, and that if People ſo ſeparated are not permitted to marry

M

they



they will certainly do worse, and yet do they insist upon the Prohibition? What is this but to drive Men to Despair, or to compel them to be wicked?

But Mr. *Milton* goes further, and imagines that the Church have usurp'd a Jurisdiction in these Cases that does not belong to them; for among the *Jews*, says he, to whom our Saviour spoke, the Parties themselves were Judges of the Occasion and Reasonableness of Divorce; they only wrote a Bill of Divorce, which was to be attested by some Rabbies, or Witnesses of Note, to prevent all Disputes in a Matter of that Consequence. Nor, says he, is it possible any Court can judge of the Secrets between Man and Wife.

But leaving these disputable Points, I shall proceed to consider the Reasonableness of prohibiting Marriage within certain Degrees of Kindred.





DEGREES  
OF  
KINDRED  
PROHIBITED  
MARRIAGE.



THESE Degrees are specify'd in the  
25 Hen. 8. cap. 22. and in the  
28 Hen. 8. cap. 7. and are as fol-  
low.

# 164 *Degrees of K I N D R E D*

## *Of the Man's Part.*

Degrees of Consanguinity.	Degrees of Affinity.
A Man may not marry his	A Man may not marry his
1. Mother.	1. Father's Wife.
2. Father's Sister.	2. Uncle's Wife.
3. Mother's Sister.	3. Father's Wife's Daughter.
4. Sister.	4. Brother's Wife.
5. Daughter.	5. Wife's Sister.
6. Son's Daughter, or Daughter's Daughter.	6. Son's Wife, or Wife's Daughter.
	7. Daughter of his Wife's Son or Daughter.

## *Of the Woman's Part.*

A Woman may not marry her	A Woman may not marry her
1. Father.	1. Mother's Husband.
2. Father's Brother.	2. Aunt's Husband.
3. Mother's Brother.	3. Sister's Husband.
4. Brother.	4. Husband's Brother.
5. Son.	5. Daughter's Husband.
6. Son of her Son or Daughter.	6. Son of her Son or Daughter.

And

And it is held, that where a Woman is carnally known, out of Matrimony, these Prohibitions shall extend to all allied in any Degree to both Parties.

These Acts were repeal'd by the 1 & 2 P. & M. cap. 8. but according to the Lord Chief Justice *Vaughan*, they were again reviv'd by the 1 *Eliz. cap. 1.* and it is so holden in the Case of *Harrison* and *Burwell*, 2 *Ventr.* 11.

And it is observ'd, that Marriages in the ascending and descending Line, *i. e.* of Children with their Father, Grandfather, Mother, Grandmother, and so upwards, are prohibited without Limit, because they are the Cause (immediate, or mediate,) of their Being; and it is directly repugnant to the Order of Nature, which hath assign'd several Duties and Offices essential to each, that would thereby be inverted and overthrown. A Parent cannot obey a Child, and therefore it is unnatural that a Parent should be Wife to a Child. A Parent, as a Parent, has a natural Right to command and correct a Child; and that a Child, as Husband, should command and correct the same Parent, is unnatural.

And according to Bishop *Jewel*, (from Parity of Reason) altho' I be not forbidden to marry my Wife's Sister, yet I am forbidden to

## 166 *Degrees of* K I N D R E D

to do, by other Words, which by Exposition are plain enough; for when God commands me, I shall not marry my Brother's Wife, it follows that he forbids me to marry my Wife's Sister; for between one Man and two Sisters, and one Woman and two Brothers, is like Analogy and Proportion.

And when this Point, of marrying the Wife's Sister, came under Consideration in the *King's-Bench*, *Mich. 25 Car. 2. Hill vers. Good*, it was indeed alledg'd, that the Precept, *prima facie*, seem'd to be only against having two Sisters at the same Time; and therefore a Prohibition was granted to the Spiritual Court; yet in *Trin. 26 Car. 2.* after hearing the Civilians, they granted a Consultation. *Vaugh. 302. Keb. 166.*

And in the Case of *Worthy* and *Watkinson*, upon the like Parity of Reason, where one had married the Daughter of the Sister of his former Wife, which is in the same Degree of Proximity as the Nephew's marrying his Father's Brother's Wife, a Consultation was granted. *2 Lev. 20.*

But where one married his great Uncle, this is declared by the *Levitical* Degree of Proximity, and *Burwell*.

2 *Ventr.* 9. And it is further declar'd there, that were it not for the Statute of 28 *Hen.* 8. *cap.* 7. we should be under no Obligation to observe the *Levitical* Degrees in this Kingdom.

And it is resolv'd, that the temporal Courts are, by the said Act, now become the proper Judges what Marriages are within or without the *Levitical* Degrees; and are to prohibit the spiritual Courts, if they impeach any Persons for Marriages without these Degrees.

The marrying within these Degrees of Blood or Affinity, has been generally esteem'd criminal among all civiliz'd Nations; but upon different Grounds: Some will have it that all Persons who are not corrupted by ill Education, or wicked Habits, do find in themselves a Repugnancy and Aversion to such Matches; which they look upon as a plain Argument that those Things are prohibited by the Law of Nature. To which it is answer'd by others, that this Abhorrence does not arise so much from any innate Principle, as from long Use and Custom, which often counterfeits Nature.

In order to settle this Matter, Mr. *Puffen-*  
to examine, in the first Place, how  
that altho' the Propagation of

so noble a Creature as Man, be in it self a Work of Honour and Credit, yet amongst all civiliz'd Nations, as well the Instruments as Acts of this good Service, should be guarded with so tender a Sense of Modesty, as nothing but a Face hardned by habitual Wickedness can conquer or suppress. The immediate Instruments of this Work of Nature lie under no Scandal of Deformity, and serve to a great and worthy Design, and have been deify'd by some Nations; the Act it self, as it is agreeable to Nature, so is it of absolute Necessity, and every Way proper for the producing of so brave and generous an Effect, therefore why should the Exercise of it before others create more Shame in a Man than eating and drinking, since the human Species can no more be preserv'd without one than the other? Some have Recourse to the holy Scripture, to clear up this Matter, and observe, that natural Shame is recorded to have been the immediate Consequence of the Fall. But why, says he, should the Passion of Shame fix on these Parts for its peculiar Residence, when our Hands and Tongues are as readily dispos'd to aid our Lust and disorderly Desires; and especially since the primitive Transgression came by the Act of eating? It might have been expected that this

Opinion

Opinion of Impurity should rather have been fixed upon the Mouth, as its original and proper Seat.

It must be granted, that every Thing which causeth Shame, is not a Sin, or forbidden by the Dictates of natural Law; as Poverty, mean Cloaths, innocent Mistakes, Deformity, and the like; which often puts us to the Blush, though we can lay no moral Turpitude to their Charge: But the Reason why we would avoid these Things, is observed to be, because they are Tokens of some Infirmary or Imperfection.

He adds, that he who lays open to publick View those Parts which the Custom of the Nation bids him conceal, is held to be an Offender against natural Honesty and Decorum; though he might take the same Liberty in a Country where Men go naked, without the Imputation of Obscenity or Sin. And a Teacher of Anatomy may innocently expose Things to our View, which it would not be decent for him to name, if he were not engag'd in his proper Business. And even in those Nations where the appearing naked is prohibited, the secret Parts may sometimes be disclosed without Sin; as where we come under the Care of Physicians, or Surgeons, or Children



dren are in the swadling Cloaths, because in these Cases the Discovery is made without any lascivious Design; from whence it appears, that the uncovering the secret Parts is not in it self foul or indecent, but is only rendered so by the Circumstances; which Circumstances are taken either from the Lust of others, or from their Honour or Worth, or from our own Reputation, which we are obliged to preserve.

Many Things are transacted with Decency and Convenience in private, which if performed publicly, would be reproached as infamous; though we think it no Dishonour to let the Company know on what Account we retire; and many Actions pass uncensured in Men, which would look intolerably impudent in the other Sex.

But Mr. *Puffendorf* seems to assign Pride, as one of the principal Occasions of this Sort of Shame; for Man, says he, is a proud Creature, fondly desirous of Honour, and abhors any Thing that seems to lessen him. Now, says he, through these Outlets of the Body, Nature casts off the useless Relicks of what we eat or drink, and these Relicks we have a great Aversion to; not only upon Account of their Uncomeliness, but inasmuch as they seem  
to

to upbraid us with our mean Condition; whilst the greatest Delicacies of Taste, by being once received within us, are so vilely changed and corrupted. Hence, says he, our lofty Imagination engageth us to be very industrious, in concealing so manifest Tokens of our Infirmary.

*Tully* observes, that Nature seems to have had a most kind Regard to the Dignity of our Body, by exposing only these Parts to Sight, which appear beautiful, comely, and agreeable; and by covering and concealing those which would be foul and offensive, if laid open to View, and serve us only for the mere Necessaries of our Being. This exquisite Diligence which Nature hath shewn in the human Fabrick, Men have imitated in their modest Customs and Manners.

*Mr. Puffendorf* adds, that since our Affections are depraved and corrupted by the Fall, our irregular Lusts endeavour violently to make a Sally through those Passages; and since the due Restraints and legal Methods of Propagation, are the very Hinges on which human Nature and Society seem to turn; Nature, to preserve her own Dignity, and to cut off as much as possible all Occasion of loose Desires, has invented this Passion of Shame; engaging Men

Men carefully to cover and guard those weak Places, lest lying continually open, they should tempt and invite the Enemy; and restraining the Pursuit of unlawful Pleasures, confines the Exercise of those which are lawful, to the Privacy of Darkeness and Retirement.

He farther observes, that our Shame is ever encreased to a high Degree, by the Presence of those Persons, to whom we naturally owe a Reverence, or towards whom we ought to carry our selves with Gravity and Caution: Such as our Parents and our Children; and he who cannot be deterred from daring to offer under these awful Restraints, the open Freedom and Familiarity of the conjugal State, is justly adjudged to have an invincible Forehead, and to be well prepared for the Commission of the greatest Villanies.

This Shame, therefore, he apprehends may be assigned as one of the principal Causes, why we esteem Marriages between Kindred in a direct Line to be forbidden by the Law of Nature; especially since there never did, and probably never will, any Case happen, which will render these Matches necessary for the Preservation of human Race.

The

The chaste and pious Regard of the *Roman* Laws in this Point was such, that out of Reverence to the bare Name of Father, they allowed no Man to marry his adopted Daughter, though all the Right of Adoption had been formally reversed.

The *Jews* did not so much look upon this Practice as contrary to the Law of Nature, as to the original Prohibition of God; for they held that from the Beginning of the World, six Kinds of Conjunctions were divinely forbidden; *viz.* with a Mother, or Mother-in-Law, with another Man's Wife, with a Sister by the same Venter, with a Male, and with a Beast.

Mr. *Puffendorf* proceeds to the other Degrees of Consanguinity, and observes, that with Brothers and Sisters there is commonly so remarkable a Modesty, that they are unwilling to be present in a Place where the Endearments of Love and Courtship are carrying on; and that Brothers themselves are usually averse to talking with each other on these Points of Pleasure, though only in Jest.

But he says he cannot affirm, that Marriages in the first Degree are of themselves repugnant to the Law of Nature; because such Marriages must necessarily have been made between

tween the first Children of our first Parents; and it is not to be supposed, that God would appoint such a Case in which the Law of Nature could not but be violated, when he commanded such to encrease and multiply, and provided no other Way of performing that Duty; therefore he looks upon it, that the Prohibition of these Marriages arose from some positive Ordinance; the Ground of which, he supposes, might be either the great Modesty discoverable between Parties thus related; or 2<sup>dly</sup>, That inasmuch as their Circumstances engage them to live together in a free and unobserved Manner, were they allowed to unite in a wedded State, too frequent Opportunities would be offered of Adultery, and other shameful Disorders.

Bishop *Cumberland* says, that those promiscuous Copulations between Brothers and Sisters, and other near Relations, which upon the first peopling of the World were lawful; because then necessary for the Propagation of Mankind: Out of a Consideration of that great End, the publick Good, which every one ought principally to have in View, are now become unlawful: Since without an Abhorrence of this Copulation between Brothers and Sisters, it were hard, if not impossible, that

that the Chastity of such young Persons, conversing so constantly and intimately together from their Youth, should be otherwise preserv'd, without an early Prepossession of the Horror of such promiscuous Copulations. And hence also, says he, I suppose that natural Reason taught most Nations, after Mankind began to be multiply'd upon the Earth, and the Memory of their first original Relation they had to each other to be forgotten, to prohibit Marriage between near Relations, that by this means new Friendships, and stricter Bonds of Amity, should be contracted between Families and Persons not nearly related in Blood, from whence a large Diffusion of Friendship and Kindness proceeding from this Relation, might be spread amongst Persons, not only of the same Commonwealth, but of divers Nations; and also that those Factions and Enmities which would often happen between particular Men and Families, were they only to marry into their own Clan, or Tribe, may be prevented; or if begun, may by fresh Alliances be reconciled and taken away.

It is observable that *Thomas Aquinas* condemns Marriages within any of the forbidden Degrees, for this Reason, among others, that  
there

## 176 *Degrees of* KINDRED, &c.

there is some Danger, lest the Friendship a Man bears to such a Woman should be immoderate; for, says he, if the conjugal Affection be full and perfect betwixt them, as it ought to be, and that it be over and above furcharg'd with that of Kindred too, there is no doubt but such an Addition will carry the Husband beyond the Bounds of Reason. But, with *Aquinas's* Leave, there seems as little Reason to apprehend that a Man should have a greater Affection for a Wife taken out of his own Family, than out of a Stranger's, as there is to apprehend that a Man should be too fond of his own Wife.

I shall now proceed to give a short Abstract of the Statutes which prohibit forceable and clandestine Marriages.





O F

FORCEABLE and CLANDESTINE

## MARRIAGES.



Y the 3 *Hen. 7. cap. 2.* it is enacted, That whoever shall take away any Maid, Widow, or Wife, against her Will; they, their Procurers and Abettors, and whoever shall wittingly receive such Woman, so taken against her Will, knowing the same, shall be guilty of Felony.

Upon which Statute it has been resolved, That unless such Woman have Goods moveable, or Lands, or Tenements in Possession; or is

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Heiress



Heirefs apparent to her Ancestor; (as is recited in the Preamble of this Statute) and unless she is married, or deflowered by the Offender, it is not Felony within the Statute: But it is held that the Woman, though married to the Offender, shall be admitted to be Evidence against him. It is held also, that the Receivers of the Woman so forceably taken, shall be deemed principal Felons; but the Receivers of the Offenders who forceably took her away, are but Accessories. And by the 39 *Eliz. cap. 9.* the Benefit of the Clergy is taken away from the principal Offenders.

By the 4 and 5 of *P. and M. cap. 8.* it is enacted, That it shall not be lawful to take or convey away any Maid, or Woman Child unmarried, being within the Age of sixteen, from the Father, or from any Person to whom the Father hath by his Will, &c. assigned the Custody or Education of her; and whoever shall take away such Woman Child, against the Will of the Father or Mother, or of such Person who shall have the Custody or Education of her, such Person shall suffer two Years Imprisonment, or pay such Fine as the *Star Chamber* (now the Court of *King's Bench*) shall assess.

And if any Person shall take away and deflower such Woman Child, or against the Will  
of

of the Father or Mother of such Woman Child, shall by secret Letters, Messages, or otherwise, contract Matrimony with such Maid or Woman Child; the Offender shall suffer five Years Imprisonment, or be fined as aforesaid; one Moiety to the Crown, and the other to the Parties grieved: And if such Maid, being above the Age of twelve Years, and under sixteen, shall consent to such Marriage Contract, the next of Kin to whom her Inheritance should descend or come to after her Decease, shall enjoy the same during her Life, and afterwards it shall remain to the right Heir.

By the 7 and 8 *W. and M. cap. 35.* a Minister marrying a Couple without Banns or License, forfeits one hundred Pound; the Man himself ten Pound, and the Clerk or Sexton five Pound. And by the 10 *Anne cap. 19.* if the Minister be a Prisoner, he shall be committed to the County Goal, and stand charged in Execution with the Penalty; and the Goaler permitting such Marriage, shall forfeit one hundred Pound.



O F

## Marriage CONTRACTS.



THE common Law does not esteem a Couple who are betroth'd or espous'd, even by Words of present Time, to be so far Man and Wife, as to give either Party any Interest or Property in the other's Lands or Goods, or to legitimate their Issue, until the Marriage be solemniz'd according to the Rites of the Church of *England*; but where such Contracts are made in Words of present Time, as, *I do take thee for my Wife, or, I do take thee*

*thee for my Husband*; there the Parties are. so far Man and Wife, that they cannot marry elsewhere; and if they do, their Issue are Bastards, and they may be compell'd to return to their former Spouse, by the Ecclesiastical Laws. I shall first treat of mutual Promises of future Marriage made between Persons who may lawfully marry.

And here, if only one of the Parties promise, it is not binding; nor is the silent Party presum'd to consent, unless in some Instances; as where the Father or Mother contract for the Child, there, the Child being present, and hearing the Contract, Silence is taken for Consent; but it is otherwise, if any other Person but the Parents answer for the Party.

It is not material in what Form of Words Marriage Contracts are made, or whether by Writing, Signs or Tokens, so as the Consent be made apparent; but there must be no Violence, Threats or Fraud us'd, for if there be, the Contract will be void: Also if either Party be an Infant under seven Years of Age, of Kindred within the *Levitical* Degrees, or contracted to another before; in any of these Cases Espousals, or Contracts of present or future Marriage, are void: And where the Parties contracting are above seven Years of Age,

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and under the Ages of fourteen and twelve, there the Man at his Age of fourteen, and the Woman at the Age of twelve, may disagree, and marry elsewhere. Indeed the Marriages of young Princes, made by the State in their Behalf, at any Age are held good; this being look'd upon for the common Benefit and Peace of Mankind.

To proceed; notwithstanding it is generally held, that the Words; *I will take thee for my Wife*, or *I will marry thee*, are only a Promise of future Marriage; yet great Regard is had to the Apprehension and Intentions of the Parties: For as it is the Consent only which makes the Marriage, and the Vulgar frequently confound the Tenses, and take the future for the present; where it plainly appears they meant present Marriage, it shall be so esteemed; and where the Contract is by way of Interrogation, and it is demanded of the Man, *if he will take the Woman to his Wife?* and he answers, *I will*; and it is demanded of the Woman, *if she will take the Man to her Husband?* and she answers, *I will*; by this, says Mr. Swinburn, Marriage, and not Spousals, are contracted. In our Form of Marriage the Words are both Ways, *I will*, and, *I do*; and I don't doubt but all People, when they

## Of Marriage CONTRACTS. 183

they come into Church, do apprehend the Words, *I will*, to signify a Consent to present Marriage there, whatever they may mean out of a Church; or upon another Occasion.

It is not necessary, in these Contracts of future Marriage, that both Parties use the same Words, or Expressions; but if one Party says, *I will marry thee*, or, *I will contract Matrimony with thee*; and the other answers, *I am content*, or, *I am pleas'd*, &c. hereby Spoufals *de futuro* are contracted: Or if one Party says, *I promise to marry thee, and if thou be content to marry me, then kiss me, or give me thy Hand*; the other Party kissing, or giving the Hand accordingly, Spoufals are thereby contracted.

Mr. Swinburn is of Opinion, that where there has been a Treaty of Marriage before, then by the Words, *I will marry thee*, or, *I will take thee to my Wife*, Matrimony is induc'd. Also where the Parties use the Words, *from henceforth I will take thee*, it is as much as if they had said; *I do take thee*, and an absolute Marriage; and even where the Words are doubtful whether they import a Promise of future Marriage, or present Matrimony, because a double Construction may be

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put upon them, there they shall be taken in Favour of Matrimony; unless it be in Prejudice of a second Marriage undoubted, or unless the former Contract was clandestine, or secret.

But admitting the Words import no more than a Promise of future Marriage; yet if the Parties afterwards lie together, that Contract thereby passes into a real Marriage, in Construction of Law.



### CONTRACTS *in Words of present Time.*



WORDS that import present Matrimony, Mr. Swinburn observes, are such as these, *viz. I take thee to my Wife; I hold thee for my Wife; Thou art my Wife; I consent unto thee as my Wife; I recommend thee for my Wife;* but, as has been observ'd before, the Consent must be mutual, the Words must be repeated, or the Purport of them agreed to by both Parties,

or

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or they are not binding; and if the Words in their own Nature import no more than Spoufals *de futuro*, yet if, according to the Dialect and Custom of the Place, they infer Matrimony, this being prov'd, the Contract is of that Force, that if either Party should afterwards solemnize Matrimony with another, such second Marriage would be invalid, tho' confirm'd by Cohabitation, and having of Children. And it will not avail either Party to say, as *Henry* the Eighth did, after he had married *Anne Cleve*, that he never inwardly consented; for if the Words of the Contract import real Matrimony, the Judge is to give no Credit to any sinister Meaning or Intention of either Party.

Where Parents contract Matrimony for and in Behalf of their Children, though the Children say nothing, if they are present, and hear the same, their Silence is interpreted a sufficient Proof of their Consent and Approbation.

And altho' the Words of the Contract, neither in their natural Signification, nor by common Use and Accepration, import Matrimony, yet if the Parties thereby intend to contract Matrimony, they are inseparable Man and Wife, not only before God, but also before  
Men.



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Man, in case their Meaning fully appear. And if there be no Witnesses of the Contract, yet the Parties having really, tho' secretly, contracted themselves in Words of present Time, are very Man and Wife before God: Nor can either of them, with a safe Conscience, marry elsewhere, as long as the other Party lives; for Proof is not of the Essence of Matrimony. Their Consciences are as a thousand Witnesses in the Presence of God, tho' it be otherwise in human Judicatures.

It is not necessary that the Parties contract Matrimony at the same Instant, by speaking and answering immediately one after another; but if there be some Distance of Time betwixt the Promise of the one and the other, the Contract may be good, if the Party whose Promise is first pass'd perseveres still in his or her Purpose, until the other Party hath likewise promis'd.

But when Children, upwards of seven Years of Age, (who have not attain'd to lawful Years, *viz.* fourteen and twelve,) are contracted by Words of present Time, as, *I take thee to my Wife*, and, *I take thee to my Husband*; this, by Interpretation of Law, is not Matrimony, but Espousals, (if it be either) for they may dissent when they have attain'd their said respective Ages.      Where

## *Of Marriage* CONTRACTS. 187

Where the Words of the Contract are spoken only in Jest or Sport, they are said not to be obligatory in so serious a Matter.

If one Party contract conditionally, and the other absolutely, as where the Man says, *I take thee to my Wife*, and the Woman answers, *I take thee to my Husband, if my Father consent*; this is void.

Where a Contract is made in Words of future Time, as, *I will have thee for my Wife*, and, *I will have thee for my Husband*, and this is not carried into Execution, by Consummation, or otherwise, if the Parties marry elsewhere, the second Marriage will hold.

Where the Contract refers to a Day to come, as when the Man says, *I promise to marry thee at Whitsontide next*, and she answers, *I promise to marry thee then*, neither Party can prosecute the other to make good his Promise, till the Time prefix'd is past.

If both Parties suffer the Time to lapse, without any Offer of Performance, the Spoufals are dissolv'd, unless they were hindred by some casual Means, or by a third Person, for then the Spoufals hold; for tho' such Impediment do excuse from Punishment, for not marrying at the appointed Time, yet doth it


not

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not dissolve the Covenant, and the Impediment ceasing, they are to marry as soon as they can conveniently.



## *Conditional* CONTRACTS.

 HERE the Parties contract conditionally, as by saying, *I do contract Matrimony with thee, if thy Father consent*; there, until the Father consent, there is neither Obligation, or Action, either for Espousals or Matrimony; unless the Parties afterwards lye together, and then they are deem'd to have renounced the Condition, and presently to yield their mutual Consents, to contract and consummate, pure and perfect Matrimony.

And where the Parties having contracted Matrimony, *if their Parents shall consent*, and their Parents do first dissent; but upon further Advice their Minds alter, and they become willing: This new Consent doth not re-establish the Matrimony, before dissolv'd by their Dissent.

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If one of the Parties, while the Condition is depending, contract pure and perfect Matrimony; that cannot be overthrown by the succeeding Accomplishment, of the Condition of the former Contract.

In Case a Man and Woman contract Matrimony, upon Condition their Parents Consent: If either of the Parties revoketh and disclaimeth the Contract, before the Parents do consent (or before the Accomplishment of any such like Condition) then will not these Espousals become Matrimony by the Parents Consent, &c. afterwards.

And the Civilians hold, it seems, that where any Condition is inferred in the Contract, which strikes at the indissoluble Bond of Matrimony, as they call it, the Contract is void: As where one contracts Matrimony with a Woman, *upon Condition she shall live honestly*: Such a Contract, they say, is utterly void, notwithstanding thus much is understood in every matrimonial Contract.

So likewise, where the Man contracts with the Woman, to take her to his Wife, *until he shall find a better*, such a Contract is utterly void.

Where the Man says to the Woman, *If thou wilt suffer me to lye with thee, I will*  
take

## 190. *Of Marriage* CONTRACTS.

*take thee to my Wife, or give thee one hundred Pounds?* If she do suffer him, it is however in his Choice, (by the receiv'd Opinion) whether he will marry her, or give her the hundred Pound: But if he refuse, or delay to give her the Money, he is bound to marry her.

If the Condition be *Si te Virginem invenero, or si in primo Coitu mihi placueris*; such Conditions as these are to be rejected, and the Contract is held to be perfect and absolute, whether he is deceiv'd in his Expectations or not.



## CONTRACTS *between absent* PARTIES.



Whether the Parties are present, or absent, it is not necessary, as has been hinted; that they express their Consents at the same Time, or immediately one after the other, provided that the Party which promised first, persevere and continue

## Of Marriage CONTRACTS. 191

continue in the same Mind, till the other expresses the like Consent.

But one is not presum'd to continue in the same Mind a long Time, or if other Business intervene, unless in some certain Cases; and therefore it is held, that if the Man promise the Woman to Day, that *he will or he doth take her to his Wife*; and she make the like Promise to him the next Day, this Contract is not good: For it is not presum'd the Man should persevere so long, unless where the Man having pronounc'd the Words of the Contract on his part, asks the Woman, if she be content to make the like Promise to him; and she answers, I will first confer with my Friends, or with my Council; and this Conference continues a whole Day or more: Here if she, without any new Interrogation, pronounceth the like Words to him, as he did to her; this *Swinburn* holds to be a good Contract.

Or where the Man promises this Day, and the Woman obtains Time till next Day: If she then make the like Promise to the Man, not dissenting then, or having shewn any Alteration of his Mind in the mean while, the Contract is as good as if it had been concluded before they first parted.

Also,

Also, if the Party who first promis'd, do upon the Promise of the other Party, a considerable Time after, accept the same, and consent thereto, then is the Contract good; because of this new Consent concurring with the late Answer.

If the Time betwixt the Promise of the one Party, and of the other, be not longer than the natural Day, the Party who first promis'd, is presum'd to continue his Consent, if he do nothing to shew the contrary in the mean Time; and do not depart from the Place for any considerable Time, or enter upon Business foreign to the Matter.

But to proceed to Contracts of Marriage between absent Parties; and these may be three Ways: By Mediation of their Proctors, by Messengers, or by Letters: And it is said to be necessary in these Cases, that the Parties have some Knowledge of each other, at least by Fame or Report; it being impossible to yield our Assent to contract Matrimony with those to whom we are entirely Strangers. *And surely he runs a great Hazard who loves, or makes over his Person upon common Fame, or even upon the Judgment of his dearest Friend.*

When

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When Spoufals, or Matrimony, are to be contracted by a Proctor, it is necessary that the Proxy (or Letter of Attorney) be special, expressing a certain Person with whom Spoufals or Matrimony is to be contracted; as, *I make such a one my Proctor, to contract Matrimony or Espousals for me, or in my Name, with A. B.* For it is not sufficient, if the Proxy be thus; viz. *I make A. B. my Proctor, to contract Matrimony for me with any Woman:* Or generally, *to do for me all and singular, whatsoever I my self could do, if I were personally present.* These are void Authorities in this Case.

The Form of contracting Matrimony by a Proxy, according to *Swinburn*, is thus, *I do contract Matrimony with thee, in the Name of such a Man, whose Proctor I am; or such a Man doth contract Matrimony with thee, by me his Proctor;* and the Woman answers, *I do take him to my Husband, by thee, being his Proctor.*

And it is requisite, that the Party who did constitute the Proctor, do persevere and continue in the same Mind, until the Contract is finish'd; for if he repent in the mean Time, or revoke his Proctor, which he may lawfully do, though he had covenanted, and even



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sworn not to revoke, the Contract is void, and that notwithstanding the Proctor be ignorant of the Revocation: For the Perseverance and Continuance of the Party's Consent, which did constitute, is so necessary, that without it the Contract is not of any Force.

But the Party constituting is presum'd to remain in the same Mind till he revokes; unless, where the Proxy having imparted to the Woman the Cause of his coming, and pronounc'd the Words of Spousals or Matrimony, according to his Commission, and she do not express her Consent thereunto, till a long Time after; there the Man's Consent is not presum'd to endure, if he affirm the contrary, and consequently the Contract is void.

But it seems to have been made a Question, whether the Party having first secretly revoked his Proxy, at the Time of the Contract of the Spousals or Matrimony, and yet afterwards ratifying and confirming the same, the Contract be good; the better Opinion is, that such a Contract is not good: And to illustrate this Matter, *Swinburn* gives us the following Instance.

“ The Duke of *Milan*, having two Daughters famous for their Beauty and other Accomplishments ;

“ accomplishments; the eldest nam'd *Agnesia*,  
 “ and the younger *Katherina*: The King of  
 “ *Cyprus* being most taken with the Charac-  
 “ ter of the youngest, dispatch'd an Ambaf-  
 “ fador, with a special Mandate to contract  
 “ for him, and in his Royal Name, true,  
 “ pure, and lawful Matrimony with *Agnesia*,  
 “ supposing her to be the younger Sister: The  
 “ Ambassador had no sooner set Sail, but the  
 “ King understood that *Agnesia* was the eld-  
 “ est Sister; whereupon he immediately re-  
 “ vok'd his Mandate; but the Ambassador be-  
 “ ing ignorant of this Transaction, continu'd  
 “ his Voyage; and being arriv'd at the Court  
 “ of *Milan*, contracted Matrimony with  
 “ *Agnesia*, according to his Instructions; and  
 “ the Lady having receiv'd the nuptial  
 “ Ring, carried her self as Queen of *Cyprus*,  
 “ and was complimented accordingly: Where-  
 “ upon the Ambassador return'd with an Ac-  
 “ count of the Success of his Negotiation.  
 “ The King, though infinitely concern'd at the  
 “ Mistake, yet considering it did not become  
 “ the Majesty of a Prince to recede from his  
 “ Word and Honour, especially in a Matter  
 “ of such Moment, and with Persons of that  
 “ Quality; consented to ratify and con-  
 “ firm the Contract, his Ambassador had

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“ made in his Name. But when *Agnestia*  
 “ heard, that it was not the King’s Intention  
 “ to have married her at first, and that he did  
 “ not much approve of the Match, when it  
 “ was done; all the Faculties of her Mind  
 “ were disorder’d; her Joy was turned into  
 “ Sorrow; and the Love she had conceiv’d for  
 “ his Majesty into the deadliest Hate; Resent-  
 “ ment and Despair engross’d her Soul, and  
 “ all her pleasing Dreams of Greatness were  
 “ converted into the most tragical Resolu-  
 “ tions. She could not bear to have her Love  
 “ contemn’d and slighted, and her Sex dis-  
 “ grac’d even by a sovereign Prince: She  
 “ tares her Hair, strips her self of her wed-  
 “ ding Robes, pulls off the nuptial Ring from  
 “ her Finger, and throws them into the Fire;  
 “ swearing and protesting with the most hor-  
 “ rid Execrations, that she will never acknow-  
 “ ledge the King of *Cyprus* for her Husband;  
 “ but would immediately marry another Man.  
 “ The Duke her Father seeing her Rage and  
 “ Despair, consulted the most famous Law-  
 “ yers in this Point; viz. Whether she was  
 “ not at Liberty to marry elsewhere? And it  
 “ was resolv’d, *That if the Party revoke his*  
 “ *Proctor, and afterwards ratify the Con-*  
 “ *tract, this Ratification doth not make good*  
 “ the

*“ the Contract.* Whereby the King and the  
“ Lady were set at Liberty, to their mutual  
“ Satisfaction.

But it is held farther, that not only when the Party doth by exprefs Words revoke the Authority, but also when he doth any Act which implies a Revocation; as by making a second Mandate, to contract Matrimony with another Woman: There a Contract, made in pursuance of the first Authority, is void.

A Contract by a Messenger, is where the Party sent has no Mandate, (for if he have he is a Proctor) but is charg'd barely with the Delivery of a Letter or Message. In this Case it is held, that as soon as the Party, to whom the Message or Letters of Matrimony are sent, doth acquiesce and agree thereto, by expressing the like Consent, as the Message or Letters do import, (whether it be Matrimony or Spousals only) the Contract is thereby perfect, without expecting any Ratification from the Party who sent the Letter or Message; unless it appear such Party did dissent, before the other consented.

In contracting Matrimony or Spousals by Letters, this one Thing principally is to be observ'd; namely, that as it is necessary for that Party which sendeth the Letters, containing

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Words fit for Spousals or Matrimony (as, *I promise hereby that I will, or that, I do take thee to my Wife, &c.*) still to continue in the same Mind without Alteration, until the time of the other's Consent: So on the other Side it is necessary, that that Party to whom the Letters are sent, upon receipt thereof, or shortly after, do express the like Consent, either to him which brought the Letters, or to some others; or else by Letters to the former Party, which Things being perform'd by both Parties, the Contract is good. But if either the Party which sent the Letters repent in the mean Time, which notwithstanding is not presum'd, unless it be prov'd; or the Party which receiv'd the Letters do not then, or shortly after the Receipt thereof, deliver expressly the like mutual Consent, it is in Effect as if neither of them had ever consented.



## *Private* CONTRACTS.



HERE Persons contract Matrimony privately without Witnesses, it is universally agreed, that they are very  
Man

Man and Wife in Conscience; and if either of the Parties marry elsewhere, they are guilty of Adultery. But the Magistrate can only judge of these Matters by the Testimony of Witnesses, and therefore it may be difficult to make such a Marriage good in Law.

Upon this Head we find several Cases put; of which take the following, which will include most of the rest.

If a Man secretly, without the Presence of Witnesses, contracts Spousals or Matrimony with one Woman, and afterwards publicly, before a sufficient Number of Witnesses, makes the like Contract with another Woman, after which second Contract the former Woman charges him with the first, and he confesses he was first contracted with her, whether, in this Case, the former secret Contract, or the second publick Contract, shall prevail?

And it is resolv'd in this Case, that altho', before God, the secret Pre-contract never publish'd, is to be prefer'd before the like subsequent Contract, how publick soever; yet before Judges Ecclesiastical it is otherwise, and the Confession of both Parties, pretending themselves pre-contracted, without other Proof, shall not be credited, in Prejudice of a Con-

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tract sufficiently testify'd and prov'd by Witnesses; because then it would be a very easy Matter for such as were duly contracted, under Pretence of a Pre-contract, at their Pleasure, when they were weary of one another, to undo the most undoubted Contract, by suborning those whom they lik'd better, to affirm a former secret Contract with them. Indeed, if it were not in Prejudice of another Contract, their bare Confession would suffice; or if this Confession of both Parties were made before the second Contract was made, then the first might prevail against the second Contract, because at that Time the Confession cannot be suspected of any Collusion; but a Confession made after the Time of the second Contract, tho' prov'd also by one Witness, and common Fame, will not prevail against one made before two Witnesses; for it is a receiv'd Maxim, that when the Proof of the second Contract is more clear than the former, there the second is to be preferr'd; except in the following Cases, *viz.* when the second Contract is made depending a Suit about the former Contract; or when the second Contract is made upon Condition there be no Pre-contract; or if the former Spousals comprehend Spousals of present Time, and the last, but  
a Pro-

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a Promise of future Marriage ; or there be other Circumstances to induce the Judge to give Sentence for the former Contract ; in these Cases the former Contract, prov'd by one Witness, and common Fame, of the Pre-contract, is preferr'd before the second Contract, prov'd by two Witnesses.

Again ; where a Man and Woman are secretly contracted, having mutually given their full Consent to be Husband and Wife, and the Man afterwards marries another, and the first Woman uses all Means, by Suit and otherwise, to recover her Husband, but does not prevail, for want of sufficient Proof ; in this Case, Mr. *Swinburn* holds, she may with a safe Conscience marry another Husband ; for, says he, having endeavour'd to the utmost of her Power, and not able to remain single any longer, it were not only against Law, but against Reason and Equity, that she should be bound to an Impossibility. And of two Evils, the less is to be chosen : *It is better to marry than to burn.* So that we see Necessity, *almighty Necessity*, will break thro' even the most solemn Engagements, according to the civil Lawyers: But I should rather affirm, that the one Party having broken the Contract, has thereby set the other at Liberty ; for our  
Saviour



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Saviour himself allows us to marry again, in Case of Fornication : And since human Judicatures cannot do us Right, because the Contract was in secret, the Party is, no doubt, in such Instances, at liberty to do him or herself Right, by marrying another.

By the Laws Ecclesiastical of this Realm, if Persons have contracted Espousals in Words of present Time, they may be conven'd before the Ordinary, and adjudg'd to solemnize their Marriage in the Face of the Church; and if they refuse, after lawful admonition given them, he or she so refusing, may, for his or her Contumacy or Disobedience therein, be excommunicated : And if the Party excommunicate do still persevere in that State, by the Space of forty Days, the Ordinary may, by a *Significavit*, or Certificate under his Seal, certify into the Chancery the Contempt of the Party, and craving the Aid of the secular Power thereupon, a Writ *de excommunicato capiendo* is to be directed to the Sheriff, for the Apprehension of the Body of the same Party excommunicated, who being apprehended by vertue thereof, is to be kept in Prison without Bail or Mainprize, until he or she have humbled themselves, and obey'd the *Motion* of the Ordinary, which when it is done,  
and

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and the Church and Party both satisfied, then is the Ordinary to absolve the Party, and to certify the same into the Chancery ; whereupon a Writ is to be directed as before, for the Release of the Party's Imprisonment ; which Writ is call'd, *Breve de excommunicato deliberando*. To this Punishment are they subject, who having contracted Spousals *de presenti*, afterwards refuse to undergo the holy Bond of Matrimony ; or rather, to solemnize what they had done before.

But as for such as have contracted Spousals only *de futuro*, if either of them do refuse to perform their Promise, forasmuch as the Text saith, that such an one is rather to be admonish'd, than compell'd ; and lest that Punishment should by Practice grow mortal, which by Institution is medicinal, I do think, says *Swinburn*, that the Judge is not to proceed to the *Significavit*, but rather to absolve that cursed Party, which contemneth the Censures of the Church, albeit there be no Cause of Favour, but for fear of further Mischief, by compelling them to go together, which hate one another. Yet is not this froward Party thus to be dismiss'd, but is to suffer Penance, *propter Læsionem fidei*, for Breach of his Promise : Nor is he or she either to be dismiss'd

or

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or absolv'd, if those Spousals *de futuro*, by reason of carnal Knowledge, or some other Act equivalent, do become Matrimony; for in this Case, as in the former, where Spousals be contracted *de presenti*, the disobedient Party is to be excommunicated, apprehended and imprison'd, and not to be absolv'd or releas'd, before Satisfaction, or Death, or other just Cause of Divorce.



## *Of Promises of* MARRIAGE *at Common Law.*



Person who refuses to marry according to the Contract, is not only liable to a Prosecution in Court Christian, but also to an Action at Common Law, and Damages have been frequently recover'd, for Non-performance of such Contracts.

In *Michaelmas* Term, 10 *W. 3. B. R. Harrison* brought his Action against *Mrs. Cage*, for that in Consideration he had promis'd to mar-

ry

ry her, she promis'd to marry him; for which he obtain'd a Verdict. In Arrest of Judgment it was objected, that altho' the Woman, in such Cases, might have her Action, yet the Man could not, because Marriage was no Advantage to the Man, but to the Woman. But my Lord Chief Justice *Holt* held that the Action was well grounded upon the mutual Promises; for if the Woman's Promise did not bind, neither did the Man's: And it was resolv'd to be actionable on both Sides.

And in *Easter Term*, 3 *Annæ*, in the Case of *Hutton* and *Mansel*, it was held by the Lord Chief Justice *Holt*, that if there be an express Promise by the Man, and it appear the Woman countenanc'd it, and by her Actions at that Time behav'd her self as if she agreed to the Matter, altho' there be no actual Promise, yet that shall be sufficient Evidence of a Promise on her Side.

In the Case of *Jesson* and *Collins*, *Easter Term*, 2 *Annæ*, in the *King's Bench*, it was resolv'd, that a Contract in Words of present Time was a Marriage; as where it is said, *I marry you; You and I are Man and Wife, &c.* and such Contracts are not releasable: But where the Contract is in Words of future Time, as, *I will marry you; I promise to marry*  
*you,*

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*you*, &c. which refer the Marriage to a future Act, there it is releasable; but where the Party brings his Action upon a Promise of future Marriage, in order to recover Damages, it is held that he thereby waves his Remedy in the Spiritual Court.

In *Wigmore's Case*, *Michaelmas* Term, *5 Anne, B. R.* the Chief Justice held, that if the Contract was in Words of future Time, as, *I will take thee*, &c. and he does take her accordingly, and co-habit with her, 'tis a Marriage, and the spiritual Court cannot punish for Fornication.

This brings me to consider of Marriages solemniz'd by Dissenters; and whether they differ at all from such Contracts as are made before any Number of Lay-Friends met together.

In *Haydon's Case*, *9 Anne*, before the Court of Delegates, it appear'd that *Haydon*, and *Rebecca* his Wife, were *Sabbatarians*, and married by one of their Ministers, in a *Sabbatarian* Congregation; the Form in the Common Prayer Book was us'd, except the Ceremony of the Ring; they liv'd together as Man and Wife for seven Years, and then *Rebecca* died; whereupon *Haydon* took out Letters of Administration to her. But *Gould*, and *Margaret*

*garet* his Wife, who was Sister to *Rebecca*, sued a Repeal, suggesting that *Rebecca* and *Haydon* were never married; and it appearing that the Minister who marry'd them was a mere Layman, and not in Orders, the Letters of Administration, which had been granted to *Haydon*, as her Husband, were repeal'd, and a new Administration granted to the said *Margaret Gould*, her Sister. And this Sentence, upon an Appeal, was affirm'd by the Court of Delegates at *Serjeant's Inn* in *Fleet-street*; for it was held that *Haydon*, demanding a Right due to him as Husband by the Ecclesiastical Law, he ought to prove himself a Husband according to that Law; and so the Court ruled: And a Case was cited out of *Dwinburn*, where such a Marriage had been rul'd to be void.

And it is observ'd in that Case, that an Act of Parliament was thought necessary, after the grand Rebellion, to entitle People who had been married by Justices of Peace, to such legal Advantages of Dower, Thirds, &c. as attended Marriages duly solemniz'd according to the Rights of the Church of *England*. And the Act of Parliament of the 7 and 8 *W. 3. c. 35.* seems to put this Matter out of all Doubt, which lays a Penalty on Clergymen in Orders,

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if they celebrate Marriage in a clandestine Manner, for if the same Privileges and Advantages attended Marriages solemniz'd by the Dissenters, as these celebrated according to the Church of *England*, how easily would that Act be evaded, or rather rendred of no Effect? There would then be no Occasion for License or Banns, for making Oath, or giving Securities that there were no legal Impediments, but every one might do what was right in his own Eyes, who should admit himself of a dissenting Congregation.

But possibly the dissenting Teachers themselves do not apprehend the Parliament intended they should be comprehended under the Denominations of *Parsons, Vicars or Curates*, and so made liable to the Penalty of 100*l.* for marrying without Banns or License. Nor will they thank their Friends for bringing them within the Dangers of those Penalties. But it seems Marriages by *Romish* Priests, whose Orders are acknowledg'd by the Church of *England*, are deem'd to have the Effects of a legal Marriage, at least in some Instances; as in the Case of Mr. *Fielding*, who was married, by a *Romish* Priest, to Mrs. *Wadsworth*; this was held to be such a Marriage as to make it Felony in him to marry afterwards to the  
Duchess

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Duchess of *Cleveland*: And if it was such a Marriage as to bring a Man within the Danger of his Life, it would be hard if he should not also be entitled to the Advantages the Law confers on legal Marriages. And I believe no Man will affirm, that a Marriage celebrated by the Dissenters will bring a Man in Danger of the Statute which makes it Felony to have more Wives than one.

But probably there may be this Difference between a Marriage solemnized by the Dissenters, and a Contract before a Number of other Lay-Friends; the Dissenters cannot be prosecuted for not solemnizing their Marriages according to the Church of *England*, being screen'd by the Act of Toleration; whereas those who engage in a Marriage Contract before other Lay-Friends, may be compell'd to solemnize their Marriage at Church. And on the Man's Part this seems to be no inconsiderable Advantage to the Dissenters; for tho' their Children be not deem'd legitimate, or the Husband entitled to Thirds, by those Marriages, yet he has it in his Power to give and settle whatever he pleases upon the Wife and Children, according to their Deserts; and by this Means he has them in a perpetual Dependence, and keeps his Estate clear of any De-



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mands of Dower, or other Incumbrances. But for these Reasons I think no prudent Parent would chuse to celebrate his Daughter's Nuptials in a dissenting Congregation. And whether the Issue of such Marriages may not be so far deem'd Bastards in our Law, as to oblige the Parents to give Security to the Parish for their Maintenance, if they require it, may be made another Question.

I shall proceed now to shew some of the principal Effects of a Marriage duly celebrated according to the Church of *England*; but must premise, that if the Marriage be by a Priest of the Church of *England*, neither the Want of Banns, or License, or the being perform'd at an uncanonical Hour, or in a Closet, by Night or Day, will divest the Parties of any of the Rights, Privileges, or Advantages of a Marriage solemnized in the Face of the Church. And that where Persons have been esteem'd Man and Wife, and cohabited and liv'd together as such, during their Lives, the Spiritual Court shall not call such a Marriage in question after their Deaths, and bastardize their Issue. And now to proceed: Some of the principal Effects of a legal Marriage are these; the Husband hath thereby such a Power over his Wife, that she can make no Contract

Contract with any Person, without his Consent precedent or subsequent, express or presum'd; for tho' she is not debarr'd from using the Goods of her Husband, yet she cannot sell or pawn them, or give them away. If she lose her Husband's Money at Play, he may recover it, 1 *Sid.* 122. and if she win at Play, and gives Trust for the Money, her Husband may recover it, as far as the late Statutes against Gaming will permit. She cannot bind her Husband in Strictness for Necessaries, by any Contract, unless a precedent or subsequent Assent is prov'd or presum'd: But her Contracts are usually allow'd; if she buys Goods for her self, Children or Family, as necessary Apparel, Bread, &c. and if Goods come to the Husband's Use, it is an Evidence of his Assent; but if it is prov'd that he gave his Wife ready Money for these Things, it is otherwise. If the Husband forbid particular Persons to trust his Wife, he shall not be charg'd afterwards; but a general Prohibition publish'd in the *Gazette* does not amount to a legal Notice.

The Husband is not chargeable with Necessaries, according to her Degree, upon an Elopement; when she goes away and lives with her Adulterer: Nor shall he be bound by

## ***III Of Marriage CONTRACTS.***

his Wife's Receipt for Money. If the Husband threaten to beat or kill his Wife, he shall give Security to keep the Peace; and such Threats may be a Foundation for a Divorce, and separate Maintenance. The Husband, by the Marriage, hath an immediate Right to all the Wife's Goods or Chattels personal, whether he survive or no; but for Debts due to her in her own Right, if he does not get them in, or alter the Property, they will be hers, if she survive him. As for her Leases, or Chattels real, he may grant or dispose of them in her Life-time, or if he survives her; but if she survives him, they remain to her; for he cannot dispose of them by Will. And as to her Freehold Lands, if he have a Child, and survive her, he will hold them, during his Life, as Tenant by the Courtesy. In her Copyhold Lands he can have no Interest after her Decease, unless by the special Custom of the Manner. If the Wife survive him, and there be no Settlement, or Jointure, before Marriage, she will be endow'd of a third Part of his Freehold Lands, for Life, and will be entitled to one half of his personal Estate, if there be no Issue; but if there be Issue between them, then she will be entitled but to a Third. If the Wife be in Debt before Marriage,

riage,

## *Of Marriage* CONTRACTS. 21

riage, the Husband and Wife must be sued i  
the Wife's Lifetime ; for if the Wife die befor  
Judgment, he shall not be chargeable wit  
such Debts. But as it would extend this Piece  
beyond my intended Design, to enlarge upo  
these Heads, I refer the Reader to the Tre  
tise entitled, *Baron and Feme*, and other Book  
that have been written purposely on the Sub  
ject.





# Marriage R I T E S, &c.

O F T H E

# G R E C I A N S.



Marriage was esteemed very honourable in several of the *Grecian* Commonwealths, being very much encourag'd by their Laws, as the abstaining from it was discountenanc'd, and in some Places punish'd. By the *Athenian* Laws, none were admitted to any

any Post, civil or military, in the Government, but those who were married, and had Children, and Estates in Land; these being looked upon as so many Pledges of their Fidelity.

Poligamy was not commonly tolerated in Greece, for Marriage was held to be a Conjunction of one Man with one Woman: But upon some emergent Occasions, as when their Men had been destroy'd by War, or other Calamities, then a Liberty was granted of having several Wives.

The Age when they were allow'd to marry was not the same in every Commonwealth. The *Spartans* were not permitted to marry till they arrived at their full Strength. The *Athenians* are said to have limited the Time to thirty five Years of Age for the Men: *Aristotle* thought thirty seven a good Age: *Plato* and *Hesiod* thirty. The old *Athenian* Laws permitted the Women to marry at twenty-six: *Aristotle* thought eighteen, and *Hesiod* fifteen, a good Age for Women to marry.

The Time of the Year most proper for Marriage the *Athenians* held to be the Winter Months, especially *January*; and the luckiest Season, when there happen'd a Conjunction

tion of the Sun and Moon, at which Time they celebrated their Festival, call'd *the Marriage of the Gods*.

Most of the *Greeks* look'd upon it as scandalous to contract within certain Degrees of Consanguinity: The *Lacedemonians* were forbidden to marry any of their Kindred, whether in the direct Degrees of Ascent or Descent; but it was allow'd to marry a collateral Relation, as for Nephews to marry their Aunts, or Uncles their Nieces; but the Marriages of Brothers and Sisters of the whole Blood was absolutely prohibited. In some Places indeed, it was not unlawful for Brothers to marry their half Sisters.

The *Lacedemonians* allowed Marriages between those who had the same Mother, but not the same Father. The *Athenians* were forbidden to marry Sisters by the Mother's side, but not those by the same Father.

Most of the *Grecian* States required, that their Citizens should match with none but Citizens; and the *Athenians*, if a Citizen married a Foreigner, doom'd the Children to Slavery: And if a Foreigner married a Free-Woman of *Athens*, it was lawful for any Person to prosecute him; and, if he was convicted, he was sold for a Slave, and all his Goods confiscated;

ficated ; one third Part whereof was given to the Informer : If a Citizen married a Woman that was not free, he was fin'd a thousand Drachms,

Virgins were not allowed to marry without the Consent of their Parents, and of the Mother, as well as the Father, as it is said ; and the Son was also obliged to ask their Consent. When a Virgin had no Father living, her Brother dispos'd of her ; and if her Brother was not of Age, the Grandfather had the Disposal of her.

They had several Forms of betrothing ; as, *I give you this my Daughter, to make you the Father of Children lawfully begotten* ; and sometimes the Dowry was mention'd ; as where *Cyaxares* betroths his Daughter to *Cyrus*, he says, *I give you this Woman, Cyrus, who is my Daughter, and with her all Media for her Dowry* ; and the Persons to be married plighted their Faith to one another, or their Relations for them : The Man that he would be constant and sincere in his Love ; and the Woman, that she would marry him, and make him Master of all she had. The Ceremony at the concluding these Contracts was kissing each other, or giving their right Hands.



Hands, which was the usual Form of ratifying all Agreements.

In the first Ages, (and in some Countries at this Day) the Women married without Portions given them by their Relations, being purchas'd by their Husbands, whose Presents to the Woman's Relations were call'd her Dowry; but when Civility and good Manners came to be establish'd in any Place, this way of purchasing Wives was generally laid aside; and *Aristotle* makes it one Argument, to prove that the antient *Gracians* were an unciviliz'd People, because they used to buy their Wives. Some also make the most essential Difference between a Wife and a Concubine, to consist in this, that Wives had Dowries, whereas Concubines had none: And she that brought a Dowry with her, as it is improperly call'd, had a Title to a greater Freedom with her Husband, and more Respect from him, than she that had none. *Lycurgus* was so sensible of this, and some other Inconveniences attending this Custom; that partly for fear Wives should domineer over their Husbands, and partly out of a Desire that Men should choose Wives more for the Sake of their Persons, than their Money; and that no  
 Woman's

Woman's Poverty should hinder her of an Husband, quite banish'd it out of *Sparta*, *Solon* agreed herein with *Lycurgus*; for all the Dowry he permitted the *Athenian* Wives to have, was a little inconsiderable Household-Stuff, and three Suits of Cloaths; for, says *Plutarch*, he would not have Marriages for Gain, or an Estate; but for pure Love, kind Affection, and to get Children.

Every Heiress among the *Athenians* was oblig'd to marry her nearest Relation, that her Estate might not go out of the Family; but they had this further Privilege above other Wives, that their Husbands were oblig'd to lye with them three Times in a Month: And when there were any Orphan Virgins without Inheritance, he that was next in Blood was oblig'd to marry her himself, or settle a Portion on her, suitable to his Quality, on pain of one thousand Drachms.

When Virgins had no Relations to take Care of them, and were descended of Men that had been serviceable to their Country, it was usual for the State to take Care of them.

When the Wife had a Fortune, it was expected the Husband should make her a Settlement of Houses or Lands equivalent; but  
where

where there was no such Settlement, and the Husband divorc'd his Wife, he was oblig'd to return her Fortune; and though the Husband's Estate was confiscated, the Wife's Dowry was assign'd her. If a Woman died without Children, her Fortune was repaid to the Person who gave it with her: But where there were Sons, when they came of Age they enjoy'd the Mother's Fortune, whilst she was living, only allowing her a competent Maintenance.

The *Athenian* Virgins were presented to *Diana*, before it was lawful for them to marry; this Custom being instituted to appease the Goddess, as it is said, and ask her Pardon for dissenting from her. Another Custom there was, when they became marriageable, to present certain Baskets full of little Curiosities to *Diana*, for leave to depart out of her Train; and at their Weddings they commonly shav'd off some of their Hair, and dedicated it to *Diana*, or some other Deity, before the Marriage could be solemniz'd: The other Gods also were consulted, and their Assistance implor'd, and Sacrifices were offer'd by the Parents, or other Relations, of the Persons to be married. When the Victim was open'd, the Gall was taken out and thrown behind

behind the Altar, as being the Seat of Anger and Malice; and therefore the Averſion of all the Deities, who had the Care of Love, as well as thoſe who became their Votaries: The Entrails were carefully inſpected by Soothſayers; and if any unlucky Omen preſented it ſelf, the former Contract was diſſolv'd, as diſpleaſing to the Gods, and the Nuptials prevented.

The moſt fortunate Omen which could appear, was a pair of Turtles; becauſe of the inviolable Affection thoſe Birds have for each other: Inſomuch that it is ſaid, if one of them dye the other remains ſolitary for ever after; for which Reaſon, the appearing of thoſe Birds ſingle portended Separation or Sorrow; ſo the married Couple, and the Maids, were at the Nuptials put in Mind by a Song, to watch that none of theſe Birds coming ſingle, ſhould diſturb the Solemnity.

Both the married Perſons, and their Attendants, were richly dreſſ'd, according to their Quality, and adorn'd with Garlands of various Herbs and Flowers; and Cakes were made of Sefame, which Herb is ſaid to be remarkable for its Fruitfulneſs. The Houſe where the Nuptials were celebrated was likewiſe deckt with Garlands; a Peſſet was tied

at the Door, and a Maid carried a Sieve; the Bride her self carrying an earthen Vessel with parch'd Barley, signifying her Duty to attend her Household Affairs. The Bride was usually conducted in a Chariot from her Father's House to her Husband in the Evening, with Torches carried before her; she was plac'd in the middle, her Husband sitting on one side, and one of his most intimate Friends on the other; and they were sometimes attended with Musick. When the Bridegroom had been married before, he was not permitted to fetch the Bride from her Father's House, but that Care was committed to one of his Friends. When they arrived, the Axle-Tree of the Chariot was burnt, signifying that the Bride was no more to return to her Father's House. When the Bride and Bridegroom enter'd the House, they pour'd Figs and other Fruit on their Heads, as an Omen of their future Plenty. Then the Bride was splendidly entertain'd by the Bridegroom, as he had been at her Father's, when he fetch'd her away: During the Solemnity, the Company diverted themselves, and honour'd the Gods of Marriage with Musick and Dancing; and among other significant Ceremonies during the Entertainment, a Boy came in with

with a Basket of Bread, singing, *I have left the worse and found the better*; intimating, that Marriage was preferable to a single Life: After the Dances the married Couple were conducted to their Apartment richly furnish'd; the covering of the Bed was usually of Purple: Before the Bride went to Bed she bath'd; and then she was lighted to Bed with several Torches, and round one of the Torches the Bride's Mother tied her Hair String: The Relations assisted at the Solemnity, and it was look'd on as no small Misfortune to be absent; the Mothers especially were busy in lighting Torches.

The Bride and Bridegroom being shut up together in the Chamber, the Laws of *Athens* oblig'd them to eat a Quince together, intimating, it is said, that their first Conversation ought to be pleasing and agreeable: Then the Husband unloos'd the Wives Girdle, and the young People without sing wanton Songs suitable to the Occasion; and it is said, made a great Noise and stamping with their Feet, to drown the Virgin's Cries; and one of the Bridegroom's Friends stood Centinel at the Door, that none of the Women might run to her Assistance. The Company return'd in the Morning, and in Songs saluted the married

married Couple, and this lasted several Days.

The Ceremonies of the *Spartan* Marriages were different from all others, and, according to *Plutarch*, were perform'd in this Manner. When the *Spartans* had a Mind to marry, their Courtship was a kind of Rape upon the Persons they had a Fancy for; and those they chose not tender and half Children, but in the Flower of their Age, and full ripe for an Husband. Matters being agreed between them, the Woman that contriv'd and manag'd the Plot, shav'd off the Bride's Hair close to her Skin, dress'd her up in Man's Cloaths, and left her upon a Matress; this done, he comes the Bridegroom in his every Day Cloaths, sober and composed, as having suppt at his Ordinary in the common Hall, and steals as privately as he can into the Room where the Bride lay, undoes her Virgin Girdle, and takes her into his Embraces; thus having stay'd a short Time with her, he returns to the rest of his Comrades, with whom he continues to spend his Life, remaining with them as well by Night as by Day, unless he takes a short Visit to his Bride, and that could not be done without a great deal of Circumspection, and fear of being discover'd. Nor was she waiting (as may be suppos'd)

suppos'd) on her Part, to use her Woman's Wit, in watching the most favourable Opportunities for their meeting, and making Appointments when Company was out of the Way: In this Manner they liv'd a long Time, inso<sup>m</sup>uch that they had frequently Children by their Wives, before they saw their Faces by Day-light. The Interview being thus difficult and rare, serv'd not only for a continual Exercise of their Temperance, and further'd very much the Ends and Intentions of Marriage; but was a Means to keep their Passion still alive, which flags, and decays, and dies at last by too easy Access, and long Continuance with the belov'd Object.

The Laws of the *Grecians* concerning Divorces were different; some permitted Men to put away their Wives on slight Occasions; the *Cretans* allow'd it any Man, that was afraid of having too great a Number of Children. The *Athenians* likewise did it upon very small Grounds, but not without giving of a Bill, wherein was contain'd the Reason of their Divorce, to be approv'd (if the Party divorc'd made an Appeal) by the chief Magistrate. The *Spartans*, though marrying without much Nicety in Choice, seldom divorc'd their Wives: For we read that *Lysander*,



was fin'd by the Magistrates call'd *Ephori* on that Account; and though *Aristo*, one of their Kings, put away his Wife with the Approbation of the City; yet that seems to have been done rather out of an earnest Desire to have a Son to succeed in his Kingdom, which he could not expect by that Woman, than according to the Custom of his Country: But whatever Liberty the Men took, their Wives were under a greater Restraint, for it was extremely scandalous for a Woman to depart from her Husband.

The *Athenians* were something more favourable to Women, allowing them to leave their Husbands upon just Occasions: But not without appealing to the *Archon*, and presenting him a Bill of their Grievances with their own Hands.

And it was not unusual to dissolve the Marriage Tie by Consent of both Parties, after which they were at Liberty to dispose of themselves in a second Match: In some parts of *Greece* it was frequent to borrow one another's Wives; as at *Athens*, *Socrates* lent his Wife *Xantippe* to *Alcibiades*. *Lycurgus* the *Spartan* Law-giver, thought the best Expedient against Jealousy, was to allow Men the Freedom of imparting the Use of their  
Wives

Wives to whom they should think fit, that so they might have Children by them; this he made a very commendable Piece of Liberality, laughing at those who thought the Violation of their Bed such an insupportable Affront, as to revenge it by Murthers, and cruel Wars. He had a good Opinion of that Man, who being grown old and having a young Wife, should recommend some virtuous handsome young Man, that she might have a Child by him, to inherit the good Qualities of such a Father, and should love this Child as tenderly, as if begotten by himself: On the other Side, an honest Man, who lov'd a married Woman upon account of her Modesty, and the well favouredness of her Children, might with good Grace beg of her Husband, his Wife's Conversation, that he might have a Cyon of so good a Tree, to transplant into his own Garden; for *Lycargus* was persuaded, that Children were not so much the Property of their Parents, as of the whole Commonwealth; and therefore would not have them begotten by the first Comers, but by the best Men that could be found.

Notwithstanding this Liberty, which was founded upon mutual Consent, they accounted

all other Adulteries the most heinous Crimes in the World; and whilst they kept to their antient Laws, were wholly Strangers to them.

The Punishment of Adultery in some Parts of *Greece* was stoning; in others, putting out the Eyes of the Adulterers. The *Locrians* inflicted this Punishment in later Ages, being oblig'd thereto by *Zaleucus* their Law-giver, whose Rigour in executing this Law is very remarkable; for having caught his Son in Adultery, he resolv'd to deprive him of Sight, and remain'd a long Time inexorable, notwithstanding the whole City was willing to remit the Punishment, and requested him to spare the Youth; at length, unable to resist the People's Importunity, he mitigated the Sentence, and redeem'd one of his Son's Eyes, by another of his own; so at once becoming a memorable Example of Justice and Mercy.

At *Gortyn* in *Crete* there was another Method of punishing Adulterers: They were cover'd with Wool, an Emblem of the Softness and Effeminacy of their Tempers, and in that Dress carried thro' the City to the Magistrate's House, who sentenc'd them to Ignominy; whereby they were depriv'd, in a Manner, of all their Privileges, and their Share in managing publick Business.

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The *Athenian* Punishments one while seem to have been Arbitrary, at the supreme Magistrate's Discretion: *Draco* afterwards left Adulterers to the Mercy of any Man that caught them in the Act, who might dismember, murder, or treat them in what other Manner he pleas'd; without being call'd to Account for it..

These Laws were afterwards soften'd, but still Adulteresses were held infamous, and not permitted to adorn themselves with fine Cloaths; and if they did, any one might tare them off their Backs, and beat them, but they might not kill or disable them. If they were found in Temples, they were look'd upon as polluted, by the Admission of Persons so infamous and detestable: And their Husbands were prohibited to cohabit with them, though never so much inclin'd to be reconcil'd, after this Offence against his Honour.

Concubinage was allow'd by all the *Greeks*, and us'd by the gravest Men amongst them. These Concubines were usually Women who had been taken Prisoners, or bought with Money, and accounted inferior to their other Wives, whose Dowry, or Quality, gave them a Preheminence. Harlots or common Women were also tolerated in most of the Gre-

*cian* Commonwealths; nor was the Use of them thought immoral. *Solon* allow'd common Whores to go publickly to those that hir'd them; and encourag'd the young Fellows at *Athens* to enjoy these, to hinder their attempting the Wives and Daughters of his Citizens. *Cato* the *Roman* Cenfor was of the same Opinion; as appears by his commending a young Gentleman for diverting himself in this Manner. *Cicero* challenges any Person to name the Time when Men were ever reprov'd for this Practice, or when they were not countenanc'd in it. The *Jews* also indulg'd this Practice with Strangers, and apprehended themselves to be prohibited Fornication only with those of their own Nation, as *Grotius* observes; and accordingly publick Stews were openly tolerated among them, and the Women therein taken into the Protection of the Government; but the *Jewish* Women not being allow'd to prostitute themselves, Doctor *Potter* thinks it was from thence that a Whore came to be call'd a *strange Woman*.

*Corinth* is remarkable for being a Nursery of Harlots, there being in that City a Temple dedicated to *Venus*, and the readiest Way thought to obtain the Favour of the Goddess, was to present her beautiful Girls, who were maintain'd

maintain'd in the Temple, and prostituted themselves for Hire: And *Strabo* observes, that there were not less than a thousand of these there in his Time.

Most of the *Grecians* kept up their Women pretty close, whether Wives or Daughters; but the *Spartans* allow'd them such Liberties, as would not be thought very decent at this Day in any Country in the World. If we may credit *Plutarch*, he says, in order to the good Education of their Youth, which is the most important Work of a Lawgiver, *Lycurgus* went so far back as to take into Consideration their very Conception and Birth, by regulating their Marriages. And he order'd the Maids to exercise themselves with Running, Wrestling, throwing Quoites, and casting Darts, to the End that the Fruit they conceiv'd might take deeper Root, grow strong, and spread it self into healthy and vigorous Bodies; and withal, that they might be more able to undergo the Pains of Child-bearing. And to the End he might take away their over-great Tenderness and Nicety, he order'd they should appear naked, as well as the Men, and dance too in that Condition, at their solemn Feasts and Sacrifices, singing certain Songs, whilst the young Men stood in

a Ring about them, seeing and hearing them. In these Songs they now and then gave a satirical Glance upon those who had behav'd themselves ill in the Wars, sometimes sung Encomiums upon those who had done any gallant Action, and by these Means inflam'd the Youth with an Emulation of their Glory; for those that were thus commended, went away brave and well satisfied with themselves; and those that were rallied were as sensibly touch'd with it, as if they had been formally and severely reprimanded, and so much the more, because the Kings, and whole Senate, saw and heard all that pass'd. Now, says our Author, though it may seem strange, that Women should appear thus naked in publick, yet was true Modesty observ'd, and Wantonness excluded? And it tended to render their Conversation free and unreserved, and to beget in them a Desire of being vigorous and active, and fill'd them with Courage and generous Thoughts, as being allow'd their Share in the Rewards of Virtue, as well as the Men. Hence, says he, came that Sense of Honour, and Nobleness of Spirit, of which we have an Instance in *Gorgo*, the Wife of King *Leonidas*; who being told in Discourse with some foreign Ladies, that the Women of *Lacedemon*,

were

were they only of the World, who had an Empire over the Men ; briskly reparteed, That there was good Reason, for they were the only Women that brought forth Men. Lastly, These publick Processions of the Maids, and their appearing naked in their Exercises and Dancings, were Provocations and Baits to stir up and allure the young Men to Marriage ; and that not upon Geometrical Reasons, as *Plato* calls them ; (such as are Interest, and Equality of Fortune) but from the Engagements of true Love and Affection.







# Marriage' R I T E S, &c.

O F T H E

# R O M A N S.



**T**H E Espousals, or Contract before Marriage, was perform'd by the Engagement of the Friends on both Sides, and might be as well on Behalf of absent Parties, as those that were present, and as well in private, as before Witnesses; yet the usual Way of betrothing, was by Writings drawn up by common Consent,

sent, and seal'd by both Parties; and the Man gave, or sent a Ring, as a Pledge to the Woman; which, in *Pliny's* Time, used to be of Iron, without any Stone in it.

There was no particular Age fix'd for Espousals; they might be made at any Time, provided the Parties were sensible of the Obligation; as they were suppos'd to be in their seventh Year. But *Augustus Caesar* afterwards directed, that no Espousals should be valid, unless they were consummated by Nuptials, within two Years.

A *Roman* might not marry any but a *Roman*; but this extended to all that were made Denizens, or had obtain'd their Freedom, by Purchase, or otherwise. And by a Law of the *Decemviri*, Marriage was prohibited between the *Patrician* Families and the *Plebeians*; but the Commons resent'd it so heinously, that the Consuls were forc'd to repeal this Law, about seven or eight Years afterwards, when a Decree was made, allowing of Marriage between Persons of all Orders and Degrees.

The *Romans* were exceeding superstitious, in Regard to the particular Time of solemnizing their Marriages, holding several Days and Times unfortunate to this Design; the *Kalends*,

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lends, Nones and Ides of every Month, particularly, were avoided, and the whole Feast of *Parentalia* in February, and all the Month of May, was look'd upon as ominous: The Season deem'd the happiest for celebrating the Nuptials, was that immediately following the Ides of June.

They had three several Kinds of Marriage amongst them, viz. *Farre*, *Coemptio*, and *Ufu*: *Confarreatio* was when the matrimonial Rites were perform'd with solemn Sacrifices and Offerings of burnt Cakes, by the *Pontifex Maximus*, and the *Flamen Dialis*, this was the most sacred Tie of all; but after some Time, it was almost universally disus'd, as including too many troublesome Ceremonies.

*Coemptio*, was when the Persons solemnly bound themselves to one another, by the Ceremony of giving or taking a Piece of Money.

The third Sort of Marriage was said to be made *by Use*, when, with the Consent of her Friends, the Woman had liv'd with the Man a whole Year compleat, without being absent three Nights; after which she was reckon'd, in all Respects, a lawful Wife; tho' the Knot was not esteem'd so indissoluble as in the for-

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mer Cases, as appears by their assigning, or making over these Sort of Wives to their Friends sometimes; which gave Rise to that Notion, of a Custom among the *Romans*, of borrowing and lending out their Wives. This Marriage *by Use* was indeed esteem'd the most incompleat of all conjugal Ties; and this Wife was not so much as call'd *Mater Familias*, or had any Right to inherit the Goods of her Husband, being taken purely upon the Account of procreating Issue; and after the bearing of three or four Children, she might be lawfully given to another Man. But Mr. *Kennet* seems positive that they had no such Custom of lending their Wives, as some have imagin'd; but the Woman was actually married to another in her Husband's Life-time. And he says they are unjustly tax'd with that savage Custom of lending out their Wives.

In those Marriages that were perform'd with any Solemnity, the nuptial Ceremonies were always preceded with the taking of Omens by the Auspices.

In dressing the Bride, they never omitted to divide her Locks with the Head of a Spear; either, says Mr. *Kennet*, as a Token that their Marriages first began by War, or Acts of Hostility, upon the Rape of the *Sabine Vir-*  
gins,

than ordinary allow'd in the Expence. They were also usually entertain'd with the Musick of Flutes, &c. the Company all the while singing *Thalafius*, or *Thalafso*, as the Greeks did *Hymenæas*, as an Exhortation to mind her Spinning, or Huswifry. 'Tis said, that among the Conditions which were agreed upon by the *Sabines* and *Romans*, after the Rape of the Virgins, this was one, that the Women should be oblig'd to no servile Offices, but what concern'd their Spinning.

At the same Time the Bridegroom threw Nuts about the Room, for the Boys to scramble for; which is said to be in Token of their leaving childish Diversions, and entring upon a more serious State of Life.

In the mean Time the genial Bed was prepar'd, and some good old Woman, who had never been married but once, plac'd the Bride on it with abundance of Ceremony.

Then the Bridegroom unloos'd her Girdle, a Custom of great Antiquity, and the young Fellows sung loose Songs upon the Occasion. The Day after the Bridegroom made a great Supper, and invited his Companions to a merry Bowl, where they usually drank

to

to a good Pitch. These drinking Matches were call'd *Repotia*.

As to their Divorces, *Plutarch* mentions a Law of *Romulus*, whereby the Wife was not suffer'd to leave her Husband, but gave a Man the Liberty of turning off his Wife, either upon poisoning her Children, or counterfeiting his private Keys, or for the Crime of Adultery. But if the Husband on any other Occasion put her away, he order'd one Moiety of his Estate to be given to the Wife, and the other to fall to the Goddess *Ceres*: And that whosoever sent away his Wife, should make an Attonement to the Gods of the Earth. 'Tis very memorable, that almost six Hundred Years after the building of the City, one *P. Servilius*, or *Caroilius Spurius*, was the first of the *Romans* that ever put away his Wife.

The common Way of divorcing was, by sending a Bill to the Woman, containing Reasons of the Separation, and the Tender of all her Goods which she brought with her: This they term'd, *Repudium mittere*. Or else it was perform'd in her Presence, before sufficient Witnesses, with the Formalities of tearing the Writings, refunding the Portion, taking away the Keys, and turning

the Woman out of Doors. But however the Law of *Romulus* came to fail, it's certain, that in latter Times the Women too, as well as the Men, might sue a Divorce, and enter on a separate Life.





# Marriage R I T E S, &c.

O F T H E

## *English* S A X O N S.



HERE one intends to marry a Virgin, or Widow, she and her Friends consenting, the Bridegroom, both by the Law of God and Man, ought to give Caution for the fulfilling of what Covenants he makes; and also that his Purpose and Desire is to have her as a Wife, according to the Law of God, and



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no otherwise; and for this his Friends must also engage.

2<sup>dly</sup>, The second Thing must be to take Care of their Maintenance, and it must be known who shall maintain her; and for this, both the Bridegroom and his Friends must engage.

3<sup>dly</sup>, After that, let the Bridegroom declare what he will give his Bride, besides what she formerly made Choice of with his good liking, in Case she over-live him.

4<sup>thly</sup>, In Case they so agree, it is fit she have the one half of all his Estate, and if they have a Child betwixt them, the whole Estate, till such Time as she marry again.

5<sup>thly</sup>, What the Bridegroom hath promis'd and confirm'd by giving Caution, let him carefully observe, and his Friends engage on his Behalf.

6<sup>thly</sup>, If they be now agreed on all Things, let the Kindred of the Bride contract her to him as a Wife, and engage for her Honesty, and then let Caution be given for Celebration of the Marriage.

7<sup>thly</sup>, If afterwards her Husband carry her out of the Territory of the *Thane*, or Baron where she was bred, into the District of another

ther *Thane*, let Caution be given to her Friends, that she shall receive Injury from no Man: And in Case she her self do any ill Thing, let her Friends be ready to make Satisfaction to her Husband, if she hath not wherewith to do it.

8<sup>thly</sup>, At the bestowing of her in Marriage a Priest must be present, who of right, with the Blessing of God, shall promote their Conjunction to the Attainment of all Felicity.

9<sup>thly</sup> and Lastly, There must be good Heed and Assurance had, that there be no Impediment of Consanguinity betwixt them, lest afterwards they be justly separated, who were unjustly join'd together.



*The Marriage CONTRACT or SETTLEMENT between BYRHTRIC and GODWIN'S Daughter.*



ERE appeareth in this Writing the Agreement that *Godwin* made with *Byrhtic*, when he wooed his Daughter.

ter; viz. First, he giveth her one pound Weight of Gold, on Condition that she stand to the Agreement, and he giveth her those Lands at *Strete*, with all that thereto appertaineth; and in *Burware Marsh*, one hundred and fifty Acres, with thirty Oxen, twenty Cows, and ten Horses, and ten Theowmen or Bondmen: This was agreed at *Kingston* before King *Cnute*, in the Presence of *Living* the Archbishop, as also of *Elsemere* the Abbat of *Ethelwin*, the Sheriff *Sired*, the elder *Godwin*, *Wulsey's* Son *Eadmur* at *Burham*, *Godwin*, *Wolstan's* Son, and *Charles* the King's Servant. And when this Maid was fetcht to *Brightling*, then went off all these for Sureties; *Elgar* the Son of *Sired*, *Frerth*, Priest of *Foleston*, *Leofwin*, Priest of *Dover*, *Wulsey* a Priest, *Eadred* the Son of *Eadelm*, *Leofwine* the Son of *Warelm*, *Cenwold Rust*, *Leofwine*, *Godwin's* Son, *Leofwine* the Red, *Godwine* the Son of *Eadgise*, and *Leofsun* his Brother. This Thing is known to all doughty (valiant) Men in *Kent*, and in *Sussex*; both Thanes and Churles, (Countrymen) and this Writing is Tripartite, one is at *Christ's Church*, a second at *St. Augustine's*, and the third hath *Byrhtic* himself.



# Marriage R I T E S, &c.

I N .

## M U S C O V Y.



THE Man is not permitted to see his Mistress before the Marriage, but employs some of his Relations to view her from Head to Foot; and upon their Report he forms a Judgment of his intended Bride. Upon the Day appointed for the Solemnization, the Bridegroom goes, in the Evening, to the

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Bride's

Bride's House, the Priest marching before him on Horseback : And even then he is not permitted to see his Spouse, but a Piece of Tafeta is held between them : Being both richly dress'd and painted, according to the Custom of the Country, they go to Church, where a Canopy is plac'd over them ; and when they have made the usual Offerings, the Priest blesses them, holding certain Images over their Heads ; then taking the Man by the right Hand, and the Woman by the left, he asks them, three times, if they are willing to be married ? and both answering, *Yes*, the whole Company join Hands, and the hundred and twenty eighth *Psalm* is sung, the Priest repeating one Verse, and the Company the other. If they have been married before, the Priest puts a Garland of Rue upon their Heads, and about their Shoulders, and bids them multiply and increase, and adds, *Whom God hath join'd together, let no Man separate* : Then one of the Company gives the Priest a Glass of Wine, who drinks to the married Couple : Afterwards the Bridegroom throws down the Glass, and he and his Bride trample it under their Feet, saying, *May they thus fall under our Feet, and be trod to Pieces, who shall endeavour to sow Division*  
betwixt

*betwixt us.* And the Women throw Flax and Hempseed at the new married Pair, wishing them Prosperity; others lay hold of the Bride's Gown, as loth to part with her; but she embraces the Bridegroom and will not part with him. As for the Transactions after the Bridegroom's carrying her home, they are not very decent, and therefore I choose to omit them. The wedding Day is said to be the last pleasant Day the Wife has, being never allow'd to stir abroad afterwards; though they take no Manner of Care of the House, but spend their Time in imbroidering and other Needle Works. The Husband exercises an absolute Dominion over his Wife, frequently proceeds to Blows, which she is said to take very kindly from him, and will hardly be persuaded he loves her, if she does not sometimes feel the Weight of his Hand.

The Men have no other Notion of Adultery, than the marrying another Man's Wife, though they have such a Veneration, it seems, for their holy Utensils, that they will not lye with a Woman till they have taken off the Cross and Images she wears about her, and veil'd all the Images in the Room. The Women are never suffered to  
advance

advance further than the Church Porch, being look'd upon as too impure to enter the consecrated Place. The Men observe four *Lents* in every Year, in which they are not permitted any Commerce with their Wives.

The *Moscovites* have more Monasteries for divorced Wives than for Maids, where they live under no Manner of Restraint, but prostitute themselves to any Man they meet. The Men here are far from adoring their Mistresses in the Manner they do in some Parts of the World; they waste but little Time in Courtship, and setting forth the Beauty and Accomplishments of their Mistresses; though their Women, it is said, don't want their Share of Charms.

The *Czar* generally shuts up his Sisters and Daughters in his Court, or in Monasteries, and will seldom suffer them to marry, looking upon the Issue of all such as marry to those of another Communion, as no better than Bastards; and they may not marry any of the *Czar's* own Subjects, for these he esteems his Slaves; and he does not it seems suffer even his own Wife to eat with him.

The Inhabitants of the Province of *Samoieda* buy as many Wives as they can purchase for their Deer; Persons of Distinction generally have four or five, and he is esteem'd the richest Man, who has most Daughters and Deer to dispose of, for they sell both to the best Bidder. They solemnize their Marriages by making a great Feast, which lasts several Days; after which, the Bride being adorn'd with Brass Rings, Bells, Fish Bones, &c. is deliver'd to her Husband: Then all their Friends leave them in his Tent till next Morning, and if he does not like his Wife after half a Year, or a Year's Tryal, he returns her to her Friends, and receives back the Deer he paid for her.

The *Siberians* marry as many Wives as they can keep, they buy them of their Fathers, but have no Priests to solemnize the Wedding; however, it seems they scruple to marry with in the fourth Degree.

The *Tartars* are also remarkable for their Poligamy; and we are told of one of them that had no less than forty Children by his Wives within the Space of one Year.





# Marriage R I T E S, &c.

I N

# P O L A N D.



THE Ladies in this Country are remarkable for their Modesty, which is look'd upon as an Effect of that Liberty their Husbands indulge them in ; it being a common Observation, that in those Countries where they are under the strictest Confinement, they seldom fail to violate the Marriage Bed as often as they meet with an Opportunity.

But they pay the Husband a Respect that is not known amongst us ; for when they want any Thing of him, they ask it kneeling, embrace

embrace his Knees, and call him their Benefactor.

Their Weddings generally last three Days, and on the second all the Guests make Presents to the Bride, which is the best Part of her Portion. It is said that the Princess of *Poland*, who married the Elector of *Bavaria*, had not less than 100,000. Crowns presented her at her Wedding.

Among the inferior People, the Maids seldom marry till twenty four or thirty Years of Age, and before they have spun a good Quantity of Cloth, which at the Wedding is distributed among the Bridegroom's Friends. These Virgins are also oblig'd to serve their Mothers in all domestick Affairs for some Time before they marry, as the Sons do their Fathers, in their proper Business; and it is said, they make a much stricter Enquiry into the Character of their Mistresses, than into their Fortunes.





# Marriage R I T E S, &c.

I N

# S W E D E N.



**H**ERE the Parents, without consulting their Children, match them as they think fit, and Wealth is chiefly consider'd in the Affair: The poor Girls have not so much as an Opportunity of being courted and admir'd, or the Lover the Pleasure of communicating his Flame: However, their Weddings are exceeding pompous and magnificent, insomuch, that

that the Excess of that Day sometimes so involves them in Debt, as they do not easily extricate themselves. The Wives being all Submission, it is said, there very seldom happens any domestick Jars, and consequently but few Divorces. It seems, Cousin Germans are not permitted to marry without the King's License.





# Marriage R I T E S, &c.

I N

## D E N M A R K.



**I**T is sometimes three or four Years between the Espousals, and the Solemnization of the Marriage here; and during that Time they admit of all Familiarities. If the Marriage be but celebrated before the Wife is brought to Bed, all is well; and so it is in *Holland*, where half a dozen, or half a score Couple come to solemnize their Nuptials together, who have liv'd as Man and Wife from the Time of their Espousals.

Marriage



# Marriage R I T E S, &c.

I N

## *Swedish* L I V O N I A.



**T**HEIR Ceremonies of Marriage are peculiar to themselves; when a Peasant marries a Maid of another Town, he makes her ride behind him, and before him rides a Bag-piper, and two of his Friends with naked Swords, who give two Strokes cross the Door of the Bridegroom's House, and strike one of the Swords into a Beam over the Bridegroom's Head, to prevent Charms. For the same  
S Reason

## 258 *Marriage* RITES, &c.

Reason the Bride scatters many pieces of red Stuff on the High-ways, and on the Graves of unbaptiz'd Children. The Bride sits at Table with a Veil over her Face, and when the Guests are seated, the Bridegroom and she rise and go to Bed, and return in two Hours; and the Feast is concluded with dancing and drinking, till they all drop down upon the Floor.



**Marriage**



# Marriage R I T E S, &c.

I N

# L A P L A N D.



HE young Men court those Wo-  
men whose Parents or Friends  
can give them most Rain  
Deer, and generally bribe her  
Relations for their Consent :  
When he comes first he stands at the Door,  
and must not come in till her Father allow  
him. . If the Father agrees, and afterwards  
breaks his Promise of giving him his Daugh-



260 *Marriage RITES, &c.*

rer, the Lover recovers all his Expences and Gifts. When the Bride goes to Church, she is dragg'd along by her Relations, pretending the greatest Reluctancy to Marrimony. The Bridegroom must serve his Father-in-Law a Year, before he can take away his Wife, and her Patrimony of Rain Deer; when all the Friends give Presents to the new married Couple.





# Marriage R I T E S, &c.

I N

## *Antient* G E R M A N Y.



*Acitus* says, these were almost the only Barbarians who contented themselves with one Wife apiece, except a few who had more, and those they had rather as a Mark of Nobility, than any Thing else.

He also observes, that amongst some of them Virgins were only allow'd to marry, and that no Woman married a second Time: They reckon'd it base to lye with Women till they were twenty Years of Age; and this Ab-

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stinence,

stinence, it is said, contributed to the Strength and Stature of themselves and their Children.

*Cluverius* says the same was observ'd in his Time, and that young Men generally liv'd unmarried till above twenty. It was not their Custom for Women to bring Portions to their Husbands, but on the contrary, the Husbands gave Portions or Gifts to their Wives, which were approv'd by the Parents and Kindred, that were present at making the Match, and those Gifts were not accommodated to please the Women's Vanity; being Cattle, Horses with their Furniture, Bucklers, Swords and Spears; and on the other hand, the Women gave something of Arms to their Husbands. These were the Pledges of their mutual Faith.





## Marriage R I T E S, &c.

I N

## Modern G E R M A N Y.



THEIR Women in general are of a tolerable Complexion, but more corpulent than the rest of their Neighbours, except the *Netherlanders*:

They are very obsequious to their Husbands, have less Command in their Houses than *English* and *French* Women, and are not allow'd the upper End of the Table. They account it rude here to salute any Woman with a Kiss, except they have been bred in such Countries where it is practis'd; so that their Way of

S 4

Great

## 264 *Marriage* RITES, &c.

Greeting is by a mutual Touch of the Hand.

Their Marriages and Funerals are very expensive, so that sometimes an ordinary Man is scarce able to recover the Charge of his Father's Funeral, or of his own Wedding in seven Years. The Entertainment frequently lasts a Month, during which they keep open House, and send the Bell-man about to invite all their Neighbours, who usually send in Wine or some other Provisions.



*Marriage*



## Marriage RITES, &c.

I N

## *Modern G R E E C E.*



HE *Greeks* call Marriage a Mystery, and it is solemniz'd by their Priests: They condemn marrying a fourth Time, but the Corruption and Poverty of their Clergy make Divorces easily obtain'd; and sometimes the Party divorced gets the Sentence altered, and the other Party is oblig'd to take them again. Their Prayers  
and

and Collects, at the Performance of the Marriage, are apt enough, and they use the Ring as in *England*. But they have other ridiculous Ceremonies; such as making the Bride and Bridegroom exchange Garlands, giving them Wine and Confections in a Spoon, tying them with a Garter and rocking them together. Such of them as live about *Constantinople* and other Cities, imitate the *Turks*, in keeping up their Daughters from the View of Men; so that their Lovers take their Account of them from Women they employ on purpose; but never see them till they come to be married, which frequently produces a too late Repentance. Those who inhabit the *Archipelago* have greater Liberty, and converse as freely as other People; but being generally light and unconstant, the young Fellows frequently break their Promises with their Mistresses, which it is said their Mothers revenge by a piece of Witchcraft, and so disable the false Lover, that he shall not be able to consummate Marriage with another, till he has made them Satisfaction: And tho' Charms are now become the Jest of Mankind, it is very certain, that Fancy and Apprehension of being charmed has gone a great Way upon these Occasions.



Marriage R I T E S, &c.

I N

*A R M E N I A.*



Bishops and Monks are not allowed to marry, but they admit no secular Priest, unless married; yet if his Wife dye, he must not marry again. Lay People are allowed to marry twice, but they abominate third Marriages. A Widower must marry none but a Widow; and those who have not been married must marry Virgins.



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Virgins. They observe the same Degrees of Consanguinity with us: They marry betimes on Monday Morning, Feast three Days before Consummation, and expose the Signs of Virginity like the *Jews* and other *Eastern Nations*.





Marriage R I T E S, &c.  
O F T H E  
*Christians of Bassora*  
I N  
*Eastern TURKEY.*



T Weddings the Bridegroom and Persons invited go to the House where the Bride lives, she is set under a Canopy, and the Bishop examines her upon Oath, whether she be a Virgin, and after that, sends his Wife and some other Women to inspect her; after which,

which, the Bishop's Wife makes Oath according as she finds it : If she swears she is a Virgin, they go to a River where the Bishop rebaptizes the Bride and Bridegroom ; when they return to the House, the Company stop at some Distance, and the Bridegroom leads the Bride to it seven Times, the Bishop always following, and saying some Prayers : After that, the new married Couple sit under the Canopy with their Shoulders against one another : Then the Bishop reads some pious Exhortations to them, and makes them lay their Heads three times together : Then he looks into his Divination Book to find the luckiest Day for consummating the Marriage, and tells them of it. If the Bishop's Wife don't swear the Bride is a Virgin, the Bishop proceeds no further ; but if the Man will have her notwithstanding, he must get an inferior Priest to perform the Ceremony, which is reckon'd a great Dishonour, and the Priest unwillingly performs it, and it is said, merely to prevent their turning *Mahometans*, which they do sometimes in Spight, when the young Women think they are unjustly dealt with.



## Marriage R I T E S, &c.

OF THE

## *Mahometans in Turkey.*



THE *Turks* have three Sorts of Wives, the first they call lawful, and agree with the Parents, in Presence of a Cadi, to give her a Dowry, and the Contract is taken down in Writing. These they never see till they are married, and the wedding Day is spent in  
Mirth

Mirth and Feasting. The second Sort of Wives they call *Kebin*, and only go to the Cadi, and tell him they have a Mind to such a one, and promise to pay her so much, if they divorce her. The third Sort are their Slaves, of whom they take as many as they please. If they divorce a Wife of the first Sort, they must tell it the Cadi, and pay her her *Dowry*, if they have no just Ground; but if they have, they give her nothing, and she must not marry another in four Months, and if she be with Child, not till she is brought to Bed; the Man is oblig'd to keep all her Children; and if he have a Mind to take her again, she must first be married to another and divorc'd from him. For their other Wives, they put them off when they please, but must keep their Children, who are all reckon'd as legitimate as those by their other Wives; they must not marry within the eighth Degree.

*Thevenot* says, their Women are commonly beautiful, well shaped and fair, cleanly and neat, never go abroad without a Veil, and seldom, except to the Baths, which they do twice a Week. They paint their Eye-brows and Eye-lids with black, which they reckon graceful, and their Nails with a reddish brown. Their Habit differs little from the Men, except their

their Head-dress. They are generally haughty, sumptuous in their Apparel, and extremely lazy, which makes them vicious; for though they are very careful to appear modest, they stretch their Inventions to cheat their Husbands and procure Gallants, which makes the *Turks* extremely jealous, so that they never suffer them to go to the Mosques and Market, or to shew themselves to any Man, though their nearest Relations, if they can help it. And the better to prevent it, the richer Sort have Baths for them in their own Houses, because when they go abroad to bathe, they form Intrigues with their Gallants. The Wife may sue a Divorce before the Cadi, if the Husband refuses to allow her Necessaries, if he be not able to maintain her, or offer to use her contrary to the Course of Nature; and in the last Case she goes before the Cadi and turns up the Sole of her Slipper, without saying a Word; upon which the Husband is sent for, and if he cannot make a good Defence, is bastinadoed, and his Wife divorced. It is said, the *Turks* do not believe the Women have Souls, or have any Thing to expect in the other World, and therefore do not permit them

them to enter their Temples in this; but why they should exclude them Paradise, when they expect their Happiness will chiefly consist in the Enjoyment of the fair Sex there, is not easy to imagine.





Marriage R I T E S, &c.

O F T H E

G A U R S,

The Posterity of the antient  
*Perfians* who worship'd Fire.



THE *Gaurs* allow a Man to have five Wives if he can maintain them, and admit of no Divorce but for Adultery, and turning *Mahometan*. The divorced Party is allowed a Year to try if they will repent, and if they

T a

do,



276 *Marriage RITES, &c.*

do, after three Years Penance, they are re-married. The Ceremony is performed by the Priest's asking their Consent, washing their Foreheads with Water, and praying and pronouncing certain Words. They are not to marry within the third Degree.





## Marriage R I T E S, &c.

O F T H E

### *Mahometans in Persia.*



HEY take their Wives either by way of Contract, Hire, or Purchase, esteeming all of them equally lawful; and accordingly, if a Man have a Son by his Slave before he have any by the first Sort of Wives, the Son of the Slave enjoys all the Privileges of Birthright: But Marriage here being very expensive, scarce any, except those of Quality, venture on it; the meaner Sort contenting themselves with a

Concubine or a Slave; the latter the Husbands use as they please; the hir'd Wives they may dismiss at Pleasure, but she must not hire herself to another till forty Days after she is dismissed. A Man may have four of those call'd married or contracted Wives, but they seldom take above one to avoid the Expence of it, and the Confusion it occasions in Families. They usually marry by Proxy, because they are never seen by one another, and the Dowry is always the Condition of this Sort of Marriage. When the Proxies have agreed, the Priest asks the Man to be married, if he ratifies what his Proxy has promis'd; and if he does, the Contract is seal'd by all present, and given to the Woman's Proxy for the Security of her Dowry. The common People do it without any Proxy, and say mutually, *that they take one another for perpetual Husband and Wife, upon their Souls.* The Husband settles the Wife's Dowry upon the clearest part of his Estate; sends the wedding Ring, and the Presents in Cloaths, Jewels, ready Money, &c. to the Bride, and she returns him embroider'd Handkerchiefs, Toilets, stich'd Night Caps, and such kind of Trifles, usually made by her own Hand. The wedding Feast is kept at the Man's House, and holds generally

rally ten Days ; upon the last the Bride's Portion, consisting in Furniture, Jewels, Slaves, and Eunuchs, &c. according to her Quality, is sent home on Beasts of Carriage with Musick playing before them, and sometimes they have a Train, and send empty Chests merely to make a Shew : At Night the Bride, if a Person of any Note, is brought home in a kind of Cradle on a Camel's Back, with Musick and Tapers before her, and her Servants following with lighted Candles. If she be an ordinary Person, she comes on Foot with a small Retinue, but so veil'd up, that no Body can discover her Shape or Stature, and two Women lead her by the Arms ; an Hour after she comes home she's carried to the Bed-chamber, and the Bridegroom is conducted to the Room by Eunuchs or old Women, the Candles being put out before he enters. Thus they never see one another till the Marriage is consummated, and that many Times happens not to be done, till several Days after the Bridegroom comes home, especially if she be of Quality ; for they reckon it a Point of Honour to appear very coy, and to hide themselves among the Women, &c. Sir *John Chardin* says, the Ladies of the Blood Royal give their Husbands the Trouble of  
T 4
some

some Months, before they will admit them. He tells a particular Story, of a Daughter of *Abas* the Great, who being married by her Father to one of his chief Generals, would not suffer him to come near her for a long Time, upon which he complained to the King, that his Majesty had given him a Tygres, who run at him with a Dagger, when he offer'd to come near her; *Abas* laugh'd at it, ask'd him how many white Slaves he had in his Harem, and being answer'd forty five, he bid him lye with them one after another, and that would be the best Means to reclaim his Wife. The General took his Advice, upon which the Lady upbraided him and complain'd to the King, who told her with a stern Countenance, the General had done so by his Order, bid her go home and invite her Husband to Bed, which she did, and for the Matter was made up. Sir *John* adds, that the meaner Sort of People do frequently, to obtain the Party's Consent, promise a greater Dowry to the Woman than they are able to give; but to bring them to an Abatement, he shuts his Door against her when she comes home, and cries he will not give so much for her, which seldom fails of obtaining his End; for it would be the greatest Dishonour in the World

World to the Bride and her Friends, to have her sent back.

It is said, if the Man don't find his Wife a Virgin, he has Power to cut off her Nose and Ears, and send her away; but Persons of Note content themselves with sending her and her Friends immediately packing. If she be found a Virgin, the Friends make extraordinary Rejoycings. They allow those who travel frequently to take Wives where they please for a certain Term, and to leave them when that is expir'd. Tho' the *Persian* Men use so great Liberties, they punish Adultery in the Wife with Death, and they may kill the Adulterer if he be taken in the Fact. *Tavernier* says, they marry their Children at nine or ten Years of Age; the Men settle a Dowry upon their Wives out of their Estates, but receive very little with them, more than what we call the *Paraphernalia*; viz. Cloaths, Jewels, and Ornaments.



*Marriage*



## MARRIAGE RITES, &c.

IN

## EAST INDIA.

**H**ERE they betroth their Children at six or seven Years of Age, but do not complet the Marriage till the Parents give their Consent, and they come to Years of Maturity; then the Bride is carried with great Ceremony to the *Ganges*, or some other River to be wash'd, the Road being strew'd

strew'd with Flowers or rich Perfumes, according to the Wealth of the Persons, and all possible Marks of Joy are shewn, that the Bride is happily arriv'd to the Age of Puberty. When the Time prefix'd is come, the Bridegroom, if he is rich, makes a Cavalcade for some Evenings successively, and particularly that before the Feast-day, his Horse being richly harness'd according to his Estate, he has one or more Umbrellas born over his Head, and is attended by his Friends and Companions. In his Train are several Jugglers and Musicians, for the Diversion of the Company; some throw artificial Fire-works, and the whole Cavalcade is accompanied with every Thing that can make it pleasant, diverting, and splendid. It is perform'd from the House of the Bridegroom to that of the Bride, through all the High-streets, and most commonly by the longest Way: When he comes to the Bride's House, into which he is usher'd by musical Instruments, he places himself upon a Carpet spread for that purpose, whither the Parents bring their Daughter; then a Priest performs the Ceremony in Presence of a Magistrate, who swears the Man, that if he divorces his Wife, he shall give back her



her Portion, and then the Priest gives them his Blessing; after which there is an Entertainment, but they have not much strong Liquor: They generally use on these Occasions little round Balls of Paste, made of several aromattick Seeds like Comfits, wherein they mix Opium, which make them merry, and then disposes them to sleep. The Bride keeps all the while in a separate Apartment with her Kindred and Friends, who also feast together, the Musick playing all the while. If the Bridegroom imagine his Spouse is not a Virgin the first Night, he is very much confounded, and they are commonly unhappy for ever after: Her Mother and the nearest the Friends and Relations on both Sides come next Morning to examine the Matter, and if they are not satisfied, set the Husband against his Wife, and expose them to every Body's Laughter; but if they believe she was a Virgin, great Rejoycings are made. They allow Concubinage, and live with their Wives much after the Manner of the *Turks* and *Persians*; they are extream jealous, and have a Liberty to kill them in Case of Adultery. The Merchants and others of the richer Sort dispose of their Wives in several Places  
where,

where their Trade or other Occasions call them ;  
so that they have Families in each Place,  
and their several Wives vie with one ano-  
ther, who shall be the most obliging, that  
they may enjoy most of their Husband's  
Company.





## Marriage RITES, &c.

I N

# C E Y L O N.



HEY are so far from looking upon it as immoral or dishonourable for their Sons and Daughters of the same Rank to lie together, that they are proud, and make their Boasts, that their Daughters have such and such young Fellows at their Command; they reckon nothing Whoredom, but lying with

with those of inferior Quality. The Matches are commonly made by their Parents, which the young People seldom contradict. The Man sends the Woman her wedding Cloaths, which is a Cloth six or seven Yards long, and a Linen Wastcoat wrought with blue and red, and if he be not able to buy, he borrows them. If the Man carries it himself, he sleeps with the Woman that Night, and then appoints the Marriage Day; when he goes with his Friends, makes an Entertainment, and eats with the Bride in the same Dish: He afterwards ties his Thumb to hers, and sleeps with her at Night, and carries her home next Day, when she must walk before him. Here he gives another Entertainment to his Friends, who return it in Presents. There is another Ceremony, which must not be omitted; the Man stands with one End of the Woman's Cloth, [this is a whole piece of Muslin or Calicoe, which the Women tie about their Middles, and then throw over their Shoulders like a Shoulder Belt, whereby their Breasts are covered] about his Loins, then they pour Water upon them, which they reckon a firm Marriage: They part at Pleasure, only the Man must return part of the Portion, which is

*Cattle,*

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288 *Marriage* RITES, &c.

Cattle, Slaves and Money; and if they have Children, the Man takes the Boys, and the Woman the Girls, and thus they change four or five Times before they are settled. The Women are not very prolifick, for they make use of an Herb to promote Miscarriage.



**Marriage**



# Marriage R I T E S, &c.

I N

S I A M.



THEIR Females are esteem'd  
 marriageable at twelve Years  
 old, and seldom bear after forty,  
 so that they marry soon:  
 They do not suffer the Maids to converse  
 with their Gallants: The Matches are made  
 by the Parents, who consult those who pre-  
 tend

pretend to the Magick Art, to know whether the young Man be rich; for every one conceals their Wealth, because of the Oppression of the Prince and inferior Magistrates. They likewise enquire, whether there is like to be a Divorce, and if the Answers are favourable, the Match is soon made: Afterwards the young Man visits the Maid three Times, and carries her Betle and Fruit. At the third Visit their Relations meet; the Bride's Portion is paid, and they may cohabit if they please. Some Days after the Priests go and sprinkle them with Holy Water, and use some Prayers proper to the Occasion; and the Solemnity is concluded with Feasting and Dancing, and Presents from the Relations. The Feast is usually kept at the House of the Bride's Friends, where they stay a few Months, and then build one of their own. The greatest Portion here is about twelve hundred Pound Sterling, and the Bridegroom's Estate must equal it. They have generally but one Wife, though the rich are allowed more. They prohibit Marriage in the first Degrees of Consanguinity, but a Man may marry two Sisters, either together or successively; and the King is

allow'd to marry his own Sister or Daughter, because they think he can't have a suitable Match out of his own Family. The Children of the chief Wives have their Father's Moveables equally divided among them; for the King has the Property of the Land. The inferior Wives and their Children have nothing but what the Father, or the Heir, think fit to bestow on them; and the Heir has Liberty to sell them. The Husbands, it is said, love their Wives and Children mightily, and are as much belov'd by them, tho' the Women perform all the slavish Work, plough the Land, &c. and maintain them not only while they are in the King's Service, which is half the Year, but at other Times; for they are for the most part so lazy, that they do nothing themselves. Divorces are very frequent, and never deny'd to the Wives, who have their Portion again. Their Children are divided betwixt them, the even Number to the Husband, and the odd to the Wife. They may marry again if they please, and sell their Children; but this is seldom practis'd, unless by the meaner Sort. Husbands have a despotical Power, and may sell all their Wives and Children, but their chief Wife, whom he may divorce. Widows have the same Power over their Children, but must



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not sell the even Number, without Consent of the Husband's Relations. None may kill their Children or Wives, because Murder in general is forbid by their Law. They marry no Foreigners, but the *Peguins* here frequently do, because they are Strangers themselves.





# Marriage R I T E S, &c.

I N

# T O N Q U I N.



THE *Tonquinese* do not marry without Consent of their Parents, or nearest Akin, nor without a Present to the Judge, or Governor of the Place where the Marriage is to be celebrated: By this Means, the Poor were

were formerly so exacted upon, that in 1639. the King made a Law, by which he adjusted the Man's Payment to his Estate, and order'd, that he that was not worth above one hundred Crowns should pay nothing. Both the Men and Women are naturally laborious, and the Maids lay up all they can get for their Portions and Cloaths, and to purchase a Necklace of Coral, or yellow Amber, and a certain Number of Beads to garnish their Locks, which hang down behind at full Length. There is no Wedding without a great Feast, which holds at least three, and sometimes nine Days. The Day after Marriage the Bride and Bridegroom call Brother and Sister; the Man may divorce the Woman at Pleasure, but the Woman cannot divorce her Husband, unless upon a very notorious Occasion. They eat with two little Sticks about six Inches long, gilt and varnished, and when the Man divorces the Woman, he takes one of his own Sticks, and one of his Wife's, and breaks them, after which, they take each one half and sew it up in a piece of Silk; then the Man is bound to restore the Woman's Portion, and to keep the Children. If a  
 Woman

Woman be convicted of Adultery, they cast her to an Elephant bred up for that Purpose, who throws her into the Air with his Trunk, and when she falls to the Ground, tramples her to Death.





# Marriage R I T E S, &c.

I N

# C H I N A.



THEIR Nuptials are splendid,  
and the Rejoycings last for  
several Days ; the Match is  
made by the Parents, with-  
out Consent of the Parties :  
People of Quality always marry to those of  
equal Degree, and must have the Emperor's  
Consent.

Consent. The middling Sort are fond of marrying into as good Families as their own, but buy as many Concubines as they please of a meaner Descent, who are obliged to honour the lawful Wife, as the sole Mistress of the Family; and when they dye, their Children must wear Mourning for three Years, which is longer than they do for their own Mothers. The Daughters of the meaner Sort are purchased by their Husbands, who pay for them in Proportion to their Character; most of them affect a tall strait Woman. Noblemen's Widows must not marry again, and those of the lowest Rank lose their Reputation if they do; for the *Chinese* Children cannot endure a Father-in-Law. Young Men marry at twenty or twenty two, and young Women at eighteen or twenty: They see no Men but their Husband's youngest Brothers in their Childhood; nor do they appear in the Streets except at *Peking*, where they are carried in covered Coaches or Sedans. They rub their Faces every Morning with white Meal, which spoils their Complexion, and paint their Lips red. They have all little Eyes and short Noses, and exceed our  
 Women

Women in natural Modesty. They cover their Necks with a little Collar of white Sattin, their Hands with long Sleeves, tread softly, cast their Eyes to the Ground, hold their Heads on one side, and look like Nuns, and yet they are not free from Vanity, nor do they love Confinement, but dress as richly as if they were to appear in publick. They buckle their Hair in several Locks, interlaced with Flowers of Gold and Silver: They wear long Vests of Sattin, or Cloth of Gold, of what Colour they please; but the elder Sort affect black or purple, with a Surcoat over it, and the Sleeves long enough to trail on the Ground if not held up. They wear a great many Jewels, and are remarkable for the smallness of their Feet, which are not very hard from their Birth, till they have done growing, but it is a Hindrance to their walking: They wear Shoes of Sattin embroidered with Gold, Silver, or Silk, and are fond of shewing them when they walk.

*Lockyer* says, they learn to dress well, are of a sprightly Temper, and loving to the last Degree.

*Dampier*

*Dampier* observes, that they are constantly employed in fine Needle-work or Embroideries, and they make their own Shoes; but the poor Women have large Feet, because they trudge about without Shoes or Stockings.







## Marriage R I T E S, &c.

I N

### *FORMOSA Island.*



HE Men don't usually marry till fifty Years of Age; but the Women as soon as they are arriv'd at Years of Maturity. When a Man is enclin'd to marry, he sends a Suit of Cloaths, with some Bawbles to the Woman, which if she accept, the Bargain is made; but they are not allow'd to cohabit till the Man is fifty Years of Age, except by stealth, when the Man goes away betimes in the Morning; and if the Woman be with Child before

fore she is thirty seven Yearsold, their she Priests squeeze their Bellies till they miscarry; for they reckon it a Sin to keep any Children alive till the Man and Woman be of these Ages; but afterwards they are careful enough of them. Their Marriages are dissolv'd upon very slight Occasions, and both Parties are at Liberty to marry again, which sometimes happen twice or thrice in a Year; they abhor Incest, but make no account of Fornication, so that it be done in private. They have no Courts of Justice, so that every one is at Liberty to take Satisfaction for Theft, Adultery, and Murder; which if the Criminal be discover'd, he makes up with Presents of Hogs, or Stags; and two or three of the former is judg'd a sufficient Compensation for Cuckoldom.





# MARRIAGE R I T E S, &c.

I N

J A P A N.



**H E N** People of Quality marry, both Parties ride in Coaches, followed by their Kindred and Friends. They go up to a high Place, where a Bonze performs the Ceremony, in the Presence of the People, at the Foot of an Idol : The Bridegroom and Bride with Flambeaux in their Hands light two Lamps at the same Time, while the Bonze pronounces

pronounces the Words; and then their Friends express their Joy, with them Happiness, and give Presents to the Bride, who throws all the Toys that she play'd with in her Infancy into the Fire; then they sacrifice Beeves to the Idol, and return in the same Pomp they came, with a Crowd of Musicians to the Bridegroom's House, which is richly furnished and set out upon these Occasions. Flowers are thrown out upon the Spectators, and the Rejoycings last commonly for a Week. The Men are allow'd Concubines, but the Women are strictly guarded, and for the least Umbrage, their Husbands may kill or divorce them. Adultery betwixt two married Persons is severely punished: They allow publick Brothel Houses. The Parents contract their Children very young, and sometimes in their Cradle. Many of their Women use the same brutish Custom to make themselves miscarry, and murder their Children, as those of *Formosa*; and it is reckoned no Crime for poor People, or unmarried Women, to destroy their Children, except they be Males, and then the Emperor breeds them up for the War.



# Marriage R I T E S, &c.

I N

*New F. E. Z.*



**W**HEN they marry the Bride and Bridegroom go with their Friends and two Notaries to Church, where the Dowry and Contracts are produced before all present. Then the Bridegroom entertains the Guests; after which the Bride's Father makes the like Treat. Then for the Portion, the Father generally gives the Bride thirty Ducats, a Woman Slave of fifty Ducats Price a party coloured Garment embroi-

embroidered with Silk, some Silk Scarfs or Hoods, a pair of fine Shoes, with Combs, perfuming Pans, Bellows, and a great many other Trinkets made of Silver and other Metals: Though the Father rarely promises above thirty Ducats for the Dowry, yet they sometimes give to the Value of two or three hundred in Cloth and other Ornaments; and sometimes ruin themselves by striving who shall make the best Presents to their Daughters. When the Bridegroom brings home his Bride, she is carried in a large wooden Cage covered with Silk, the Bridegroom's Relations going before with Torches, and those of the Bride following her with Trumpets, Pipes and Drums: And when they have made a Procession through the Market Place, and passed the great Temple, the Bridegroom turns off and goes home, where the Bride's Relations, upon her Arrival, conduct her to the Bridegroom's Chamber Door, and deliver her to his Mother. As soon as she enters the Bed-chamber, the Bridegroom toucheth her Feet with his, and the Marriage is consummated.



# Marriage R I T E S, &c.

I N

## M O R O C C O.



THE Bridegroom stipulates to give the Bride a Dowry, and the Father gives nothing with his Daughter. When the Husband divorces the Wife, he is oblig'd to give her the promis'd Dowry, and cannot marry again within four Months after; but if the Woman leaves her Husband she can demand nothing; and it often happens, says our Author, that the same Man gives the same Portion to several Wives, because they oblige them to demand a Divorce,

by

by means of ill Treatment. They can marry no more than four lawful Wives, but they may take as many other Women as they can keep: They can only cohabit with their Concubines and Slaves in the Day, but are oblig'd by Custom to lie all Night with one of their Wives. The King has commonly four Wives, besides a numerous Seraglio; and when he has a Mind to divert himself, he causes them to bathe all naked before him, and then he chuses her whom he likes best. *Dapper* and *Diego Torres* say, the new married Bride is carried on a Mule, or Camel richly harness'd, in a round Pavilion cover'd with Turkey wrought Tapestry or Taffaty, so that she can see and not be seen. They also place a Flag upon the Pavilion, and thus lead her in Triumph thro' the Streets, follow'd by a great many Mules, laden with the Presents which the Bridegroom makes to the Bride on the Day of Marriage; and after the Feast is over, if the Bridegroom be a Swordsman, he exercises with his Friends, in Presence of the Bride.





## Marriage R I T E S, &c.

O N

## G U I N E A Coast.



Man may marry as many Wives as he can maintain, and if he is convict of Adultery, he is only oblig'd to give the Value of three or four Franks to each of his Wives; but if the Woman be guilty of the like Crime, he may divorce and sell her. When a young Man has a Mind to a Girl, he spends no Time in-Courtship, but only asks the Parents or Relations Consent; and if he be not a Slave, or so poor that he cannot give her a Dowry, which consists only of seven or eight Franks.

for her Parents, and two Suits of the same Value for the Bride, he is sure to obtain her; and may carry her home the same Night. In the mean Time the Bride-maids stay with the new married Couple, that they may have Opportunity to grow acquainted before they lie together. *Snock* says, they have few Marriage Ceremonies, nor no tedious Disputes about Settlements. If the Bride is too young, the Man leaves her some Time with her Parents. She brings no Fortune, and it is sufficient if the Man has enough to defray the Expences of the Wedding Day, which consist in a little Gold, Wine and Brandy, a Sheep for the Relations, and new Cloaths for the Bride, which are proportion'd to the Circumstances of the Bridegroom, who keeps an exact Account of what he bestows on the Bride and her Friends; that if she takes pet and leave him, he may demand all again, which she or her Friends must pay to the utmost, together with the Wedding Charges: But this is not done when he puts her away, unless he produces very good Reasons for so doing. There's no Feasting or Jollitry on the Wedding Day: The Bride is dress'd for several Days successively with fine Cloaths, Gold, and other Ornaments, which they frequently borrow or hire for the Purpose. As

their Riches consist in the Multitude of their Slaves; so does their Grandeur in the Number of their Wives; so that those who strive to appear greatest have twenty; but the rest, generally from three to ten: Most of these Wives are oblig'd to till the Ground, plant, or do other Work, and get Victuals for their Husbands, while the latter do nothing but keep Company, and drink Palm Wine, which the Wives are often oblig'd to find Money for by hard Labour; but some are better Husbands, especially the Sellers of Palm Wine, and the Fishermen, who either go out to fish, or hire themselves to the *Europeans* for Rowers. The richer Sort have two Wives perpetually exempted from Labour, the first of which is the oldest and principal Wife, who is House-keeper and commands all the rest; and the second is consecrated to his God, and therefore call'd *Bossun*, of whom they are so jealous, that if a Man salutes them, they'll severely punish them in private; but they do not watch the rest so narrowly, especially if they get them Money. These *Bossuns*, who are generally the handsomest, are Slaves bought with a Design to be consecrated to their God, and they lie with them always on their Birth-day or Night, and on that Day of the Week which

- is dedicated to their God. The Wives of the chief Merchants or Traders are the happiest, because not obliged to much Labour out of the House, and they are well provided for by their Husbands. *Snock* observes, that several Negroes marry many Wives, only to get a living by them, and to wear gilt Horns; for they order them to allure other Men to their Embraces, and then discover them; so that they pretend to some they have no Husbands, and to such as know they have, they swear eternal Secrecy, but keep it no longer than the next Time they see their Husbands, who are sure to fleece the Adulterers, and make them repent of their Credulity; for the Fine among common People is from four to six Pound Sterling, but the rich pay a greater Sum; and if he has lain with a considerable Man's Wife, it costs one hundred or two of Pounds. When these Cases are brought before their Courts of Judicature, the Negroes first deny the Charge, and oblige the Accusers to confirm it by Evidence, upon which the Woman displays the whole Action in open Court, in its natural broad Terms and Colours, with all the Circumstances of Time, Place, and Manner; after which the Man, who sometimes pleaded he intended, but did not stay time enough to act the Crime, is put

to his Oath, and if he forswears it he is clear, but otherwise Sentence passes against him. Married People here have no Community of Goods, but each has his or her particular Property: The Wives generally bear the Charge of House-keeping, and the Man pays for cloathing the Family.





## Marriage RITES, &c.

IN

## *Lower* ETHIOPIA.



THESE People in their Marriages use no Courtship or Ceremonies, but apply to the Virgin's Relations for their Consent; and frequently make choice of Children of seven or eight Years old, and carry them home, where they breed them up according to their own Fancy for their Wives. Their Women are put to all the Drudgery; they till the Ground, sow, gather in Harvest, pound the Millet, make the Bread, dress Viſuals; and the Men only prepare the Drink. They dare

not

not speak to their Husbands, but on their Knees, and as soon as they see them must clap their Hands, to testify their Joy and Respect. If a Man debauches his Neighbour's Wife, he comes off for Money, but the Women pay much dearer, and are sometimes turn'd out of Doors for less Faults than Adultery, and those that entertain them, are oblig'd to pay a Sum of Money, or find other Women in their Place. It is said, they seldom draw away one another's Wives; but are commonly Informers when they observe such a criminal Correspondence. If an Affront of this Nature be put upon Gentlemen, they make no Noise of it, but take Revenge in private: And *Dapper* informs us, that the Children always follow the Condition of their Mothers, whether they be bond or free.

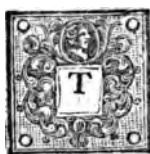




# Marriage RITES, &c.

O F

## A B Y S S I N I A.



THE *Abyssines* marry and divorce after the Manner of the Christians, and a Man who marries his Brother's Wife, or takes another in his Life time, is not punish'd by the Civil Law, but excommunicated by the Ecclesiastical. They have the Priest's Blessing at the Wedding, but no other Ceremonies worth mentioning, and their Marriages are dissolv'd by the Judges upon a Complaint. *La Croix* observes, they put away their Wives

for



### 316 *Marriage RITES, &c.*

for Trifles, and practise Poligamy frequently, notwithstanding the spiritual Injunction to the contrary. He says, that upon a Divorce, they cut off the Hair of the Man and Woman, and steeping them in Wine and Honey, lay those of the Man upon the Head of the Woman, and the Woman's upon the Man's Head.





# Marriage RITES, &c.

I N

# C H I L I.



THE *Chilese* buy their Wives, whether Maids or Widows, from their Fathers or other nearest Relations, so that many Daughters prove a good Estate to the Parents; the Price is from ten to one hundred Sheep, or a proportionable Value in Oxen, Cows, Horses, Poultry, &c. with a Coat, and some Vessels  
full

full of Chica. They are not valued by their Beauty or Quality, but according to their Skill in managing Household Affairs. When the Price is paid, the Father leads home his Daughter to the Bridegroom, who entertains him with Meat, but he finds Drink himself. A few Days after, the nearest Relations come to see the new married Couple, and at Dinner sing to the Praise of their nuptial Deity, whom they call *Maruapeante*, and fancy he tells them in a Dream when they shall marry, but they must first be drunk and sing Songs to him. A Man may have as many Wives as he can buy and maintain, of which he must give an Account to their Parents. The first and her Children have the Preheminence, and the rest are forc'd to do the Drudgery. If a Wife be mis-used by her Husband, her Relations often take her away; and if he kills her, they certainly revenge it, unless it be for committing of Adultery. Persons of Quality build a Hut for every one of their Wives, but respect one above all the rest, and her Children have the Estate and Honour. The Men are so jealous, that if their Wives do but cast a Look on another Man, they beat them without Mercy, and kill them on the Spot if they catch them in Adultery; yet this Severity does not prevent

vent their Lewdness, which if true, *Ovalle*, who commends their Modesty, must be partial to his Country-folks. They allow a Widow to marry again, provided she give her Children part of her Substance; but they reckon it more honourable to return home to her Parents without a second Marriage.





## Marriage R I T E S, &c.

O F T H E

## *Barbarous Peruvians.*



**P**ETER of Cieza, in his *Cap. 26.* says, he was among the Remains of those Cannibals, who were so barbarous that they eat up their Enemies whom they had kill'd, and kept such young Women as they took Captive for breed, whose Children they fatten'd on purpose to eat them; and thus he saw them feed upon  
their

their own Children at ten or twelve Years of Age. They were also so barbarous, as to eat the Flesh of their dead Parents, and thought it the most honourable Burial they could give them. They generally went naked, and those of best Note thought themselves very fine; if they had a coarse Bag to tye about their middles. The married Women had a square Cloth fasten'd about them with a String, instead of an Apron; but those of the meaner Sort cover'd their Nakedness with the Bark or Leaves of Trees. In colder Climates they cloath'd themselves with the Skins of Beasts, or Mats made up with Straw and Rushes. Some of the more ingenious wore a Sort of Mantles made with Wool, or Hemp coarsly spun, with some Ornaments about their Necks, and a Covering about their Wastes; and in this Habit the *Spaniards* found such of the *Peruvians* as had not submitted to the *Incas*. In general they had no Notions of Marriage; but coupl'd like Beasts, as Occasion offer'd, without Regard to Proximity of Blood: And in some Places where they had a Sort of Marriage, those Women were most esteem'd, that were liberal in dispensing their Favours; whereas those who were of a more chaste and cold Complexion, were little valued, and it was

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usual for the nearest Relation to claim the first Night with the Bride ; but in some Places the Mothers took great Care of their Daughters till they were married. *Cieca, Cap. 24.* says, their Priests were addicted to Sodomy, and committed it in the Temples, on Pretence that it would please their Idols.





## Marriage R I T E S, &c.

Of the more civiliz'd

## P E R U V I A N S.



*E la Vaga* says, that the *Inca* every Year or two order'd an Account to be taken of all young Men and Maids of his Lineage, that were marriageable in the City of *Cusco*, that he might march them together. The Maids were to be from eighteen to twenty Years of Age, and the young Men from twenty to twenty four and upwards. The *Inca* stood between the two Persons, call'd them by Name, took their Hands into his, join'd

Y 2

them



them together, and deliver'd them to their Parents or other Relations, and the Wedding was kept at the Bridegroom's Father's, with great Rejoycing for four or six Days. The Royal Lineage being thus match'd, the *Inca's* Officers did the same as to others, and those of the Royal Lineage had their Houses prepar'd for them, by those appointed to take Care of it. The Furniture was given by the Relations, and the like Customs were observ'd in this Case thro' all the Empire by the *Caciques*; and when the common People were married, those of the same Rank provided them Houses, and the Relations gave the Furniture. None might marry to People out of their own Province; but no Degree of Consanguinity was prohibited, but that of Brother and Sister, and this was allow'd to the *Incas*. *Ogilby* says, they allow'd Concubines, which they might use in common, but Adultery was punish'd by Death. The Bridegroom, when betroth'd, put on the Feet of his Bride a pair of Shoes, like those of the Grey Fryars; if a Maid, they were lin'd with Cotton, and if a Widow with Leaves.



# Marriage R I T E S, &c.

I N

## B R A Z I L.



**I**N *Brazil* they abstain from no Degree of Consanguinity but that of Mothers, Sisters, and Daughters; as to all others, they marry whom they please, except the Relations of their intimate Friends, with whom they live in the same House and have all their Goods in common; it being reckon'd a very great Crime for the Sons, Daughters, or Sisters of such to marry together: Formerly they did not allow a young Man to marry, till he had given some Proof of his Courage in War, by killing or taking

taking an Enemy, and of his Liberality, by holding Feasts for some Years before he married. The young Man makes Application first to the Woman he fancies, and then to her Parents if alive, and if dead, to the nearest Relations. If they consent the Courtship goes on, but otherwise not. The young Women when ripe for Marriage make Feasts, and then their Parents, &c. look out for Husbands for them: When the Bargain is made, the Bride is brought home to the Bridegroom, and the Kindred of both Sides feast together. When that's over, a clean Hammock is presented to the new-married Couple, which ratifies the Marriage, and they go presently to Consummation. In the mean while, the Bride's Father, or other nearest Relation, goes to another Apartment and chops a Stick in Pieces, without which they fancy the Children will have Tails like Monkeys. The new married Couple are allow'd then to drink and carouse freely, whereas the Youth of both Sexes are restrain'd from that Liberty. This Indulgence is usher'd in with a solemn Speech by the old People, about the moderate Use of strong Liquors, who tell them they must drink so as not to make their Tongues run too fast. Then they give *them* the initiating Cup, and hold their Heads,

left

lest they should be sick and vomit; for they look upon it as a Mark of Cowardise, if the young Man be drunk with his first Wine, but if he carry it off bravely, they conclude he'll be a good Soldier and beget such. *Le Blanc* says, that their Priests, nam'd *Cariobes*, perform some Ceremonies at the Marriage, by causing them to change Shoes, &c. and their Relations present them, besides a Hammock, with Baskets or Panniers, and the Father gives the Bride one full of Cotton Girdles, and Ribbands to bind her Hair, and Feathers for her Husband.





## Marriage R I T E S, &c.

I N

## P A R A G U A Y.



THE Missionaries, it seems, think it proper here, to marry Virgins at fourteen, and the Boys at sixteen, because if they continue longer single, they generally break the Commandment. They make no Provision for their Marriage, nor Inquiry after Portions; only the Missionaries provide the Hut and the Wedding Cloaths, which is five Yards of coarse woollen Stuff for each. They also present them with a fat Cow, a little Salt, and

and a few Loaves for the Wedding Dinner, to which they invite their Parents, and they find Ox Hides for their Bedding; so that the Missionaries are both Priests and Fathers. The Marriage Articles are but two, *viz.* the Woman promises to fetch her Husband Water from the River, and he engages to furnish the Kitchen with Fuel. The Woman courts the Man, and begs the Missionary's Consent, who sends for the Man, asks him the Question, and upon his liking marries them.





## Marriage R I T E S, &c.

I N

### *Terra Firma in America.*



HE young Maids, at the Time of their Puberty, are shut up in private by their Parents, and put a ~~Veil of Cotton~~ over their Faces, if any Man comes into their Room until they be fit to go abroad again.

The Natives allow Polygamy; our Author says, that the King in his Time had seven Wives, and that when he had made a long Journey, he contriv'd it so, that he found one of his Wives at every new Stage. They punish Adul-

tery

tery with Death in both Parties; if the Woman owns the Fact to her Husband, and swears she was forc'd, she finds Favour; but if she conceals it, and it be prov'd against her, she is burnt alive. Their Laws are also severe in other Respects, for a Thief dies without Mercy; and if a Man debauch a Virgin, they thrust a Bryar up the Passage of his *Penis*, and turn it round ten or twelve Times, which is not only a grievous Torment, but so mortifies the Part, that it is scarce curable. All these Facts must be prov'd upon Oath, which is by their Tooth.

When they marry, the Father of the Bride, or the next of kin, keeps her privately the first Week in his own Apartment, and then delivers her to her Husband; on this Occasion they invite all the Neighbours for twenty Miles round to a Feast: The Men bring their Axes for the Bride and Bridegroom: The Women bring half a Bushel of Maize, the Boys Fruit and Roots, and the Girls Fowls and Eggs. These Presents they set at the Door, and go away till the rest of the Guests have brought theirs, which are taken in and dispos'd of by the People of the House. Then the Men return first to the Wedding House, where the Bridegroom presents each with a Calabash of strong Drink, and conducts them through the  
House



House into some open place behind it: The Women who come drink and march in the same Order, and then the Boys and Girls drink at the Door and go after the rest; then come the new married Couple led by their Fathers. The Bridegroom makes a Speech to the Company, and then both the Fathers dance about with many antick Gestures till they swear, after which the former gives his Son to the Bride, who take each other by the Hand, and then the Bridegroom returns the Bride to the Father, which ends the Ceremony. After this the Men take up their Axes, and run shouting to a Tract of Woodland design'd for a Plantation for the new married Couple; where for seven Days together they cut down the Woods, and the Women and Children cut Maize, or whatever else is in Season, and the Men build a House for the new married Couple.

The seven Days being out, the Bridegroom and Bride settle in their new House and celebrate the Marriage-Feast; after the Men have eat heartily they fall to drink hard, but ere they begin, the Bridegroom takes all their Arms and hangs them on the Ridge Pole, because they are very quarrelsome in Drink. They tope Night and Day till the Liquor is spent, which commonly lasts three or four Days.

Marriage



Marriage R I T E S, &c.

I N T H E

*Caribbee and Leeward*  
**I S L A N D S.**



HEY take as many Wives as they please, without Regard to Kindred, and the only Ceremony is for the Man to carry her home.

Their Governors are esteemed according to the Number of their Wives; and those who fight valiantly may have as many as they will,

for

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for none whom they court refuses them. They seldom divorce them after they have **born Children**; but otherwise do it at **Pleasure**: For **Adultery** they knock out their **Brains**, and the **Parents** thank them.



**Marriage**



## Marriage R I T E S, &c.

I N

## *Old* MEXICO.



W H E N a Daughter was to be married, the Person who made the Match carried her at Night upon his Back to the young Man's House attended by four Women with lighted Torches of fine Wood. The young Man's Parents met her at the Entrance of their Court, and led her into the Hall, where he staid to receive her. There they sat down upon Mars, and all the Marriage Ceremony consisted in tying the  
Hems

Hems of their Garments together. The Priest led them nine Times about the Hearth: They burnt Perfume by way of Sacrifice to their Idols, and the Bridegroom made Presents to the Bride's Parents, and gave a Dinner to the nearest Relations. Two old Men and two old Women witnessed the Marriage, and were present at the Wedding Dinner; after which the new married Couple were admonish'd how to behave in their conjugal State. If a Man was surpriz'd in Adultery or Fornication, two Beadles were appointed to throw Firebrands at his Head. If a young Priest was caught with a Woman, two other Priests prick'd him with sharp Sticks of Pine Wood, and if he was disobedient, two Beadles burnt his Hair.

The same Author says, that at Marriages an Inventory was made of what the Bride and Bridegroom had brought, that upon Divorces, which were very common, because of their unaccountable Jealousy, each might have their Share. In which Case the Men kept their Sons, and the Women the Daughters; and they were not permitted to live together again on pain of Death, but at Liberty to marry others. If a Man and his Wife liv'd well together, there was great Feasting and Joy on both Sides among the Relations, and Thank-*Offerings* made to the Idols.

Marriage



# Marriage R I T E S, &c.

I N

## C A N A D A.



THE Men here are said not to be so amorous as the Women ; that their chief Ambition is to be good Soldiers, and expert Hunters : They seldom marry till thirty Years of Age, alledging, that the Enjoyment of Women enervates them ; but when they are at Home, they commonly go by Night with a Torch to the young Womens Chambers, which are always open : If their Mistresses on such Occasions hide their Faces, they take it as a Denial and retire, but if the Women blow out the Torch, it is a Sign of Admission, and the young Men

Z

content

content themselves with such a Ramble once a Week, which they say is necessary for Health. The young Women entertain three or four Lovers at a Time, and admit them to sit and chat at their Bed's Feet by Turns; yet seldom grant the last Favours to any but one, and they drink the Decoction of certain Roots to prevent Conception, or cause Abortion; for after they have a Child, they never get a Husband. When the young Men court for Marriage, they address their Mistress by Day, when they must talk nothing of Love, but guess by their Looks whether their Addressees be acceptable, and try it at Night. When the Matter is agreed, they meet in the Hut of their oldest Relation with a numerous Company, and feast prodigally, dance, sing, &c. after which, all the Bridegroom's Relations, but four of the eldest, retire: Then the Bride with four of hers goes to a Door, where she is received by the Bridegroom's elder Relation, who conducts her to the Bridegroom, where he and she stand upright on a Mat, holding a Rod betwixt them, while the old Men make Speeches: Then the new married Couple harangue after one another, dance, sing, and break the Rod into as many pieces as there are Witnesses, to whom they distribute them. Then the Bride

is conducted by young Men to her Father's Apartment, whither the Bridegroom goes to her till she has a Child, after which she goes home to his Apartment, and continues with him, till the Marriage be dissolved, which they may do when they please, but commonly give one another eight Days Warning : Their usual Presence is that they are sick, not able to endure the Fatigues of a married Life, and want Retirement; upon which the Witnesſes bring the pieces of Sticks to the Hut where the Marriage was made, and burn them in the Presence of the Man and Wife, which dissolves the Marriage, and the Children are equally divided, as being their chief Treasure, and if there be an odd one the Woman has it : Thus they part friendly, and both marry again, which they commonly do in six Months; yet some of them live together all their Days.

They are generally fruitful, Adultery is very rare and severely punished, and after Child-bearing, they abstain for thirty Days if it be a Boy, and forty if a Girl; and when a Woman is ready to lye in, she goes to a separate Hut with her female Slaves, and having very easy Labour makes no use of a Midwife: They dip the Child, as soon as born, in warm Water up to the Chin, and swaddle it on a Board till it  
be



be able to creep about, never make use of Nurses but in Case of Sicknefs, and let them suck as long as the Milk lasts, with which they abound so much, that they make use of Puppies to suck the Overplus. When the Women are past fifty, and are Widows or unmarried, the *Canadese* won't marry them, so that if the Women be amorous after that Age, they generally take a Prisoner of War to be their Bedfellow. When the Husband or Wife dies, the Widowhood does not continue above six Months; and if in that Time either of them dreams of the deceased frequently, they poison themselves, sing a Death Song, and go contentedly to keep the deceased Company, who they suppose is uneasy without them. It is common for the Brothers of the deceased Husband, if Batchelors, to marry the Widows, and for Sisters in the like Case to marry the Widower in six Months time. Some of both Sexes live unmarried, and the Batchelors in that Case never appear at Hunting or War, and many of their Women will never marry, but keep Company with Huntsmen without Reproach, and their Children are reckoned lawful, only the noted Warriors or Counsellors will not suffer their Children to marry with such. The *Illinese*, and those who inhabit the River *Mississipi*, are much given to Sodomy, The

The *Romish* Priests are very severe upon the *French*, if they be lewd with the Natives. They frequently name them in the Pulpits, and excommunicate them, but they are more indulgent to the Savages; some of them when reproved have told the Priest, they had a Mind to their Mistresses, and they would have them; and the female Savages say, *If their Threats of eternal Punishment for such Crimes be true, the Mountains of the ather World must consist of the Ashes of Souls*. They laugh at the Jealousy of the *French*, and say, it is a just Punishment, for making themselves Slaves to one another, when they know the Bait of Gold and Silver is too strong a Temptation for the weak Sex to refuse, when cloyed with one Man. The *Indian* Women like the *French* better than their own Countrymen; and several *French* Ladies admit the Embraces of the Savages, for rich Presents of Furs. The Children go by the Names of their Mothers, because they fancy they receive their Bodies from their Mother, and their Souls from their Father.

*This should have come under the Head of Concubinage, pag. 108.*

If it be demanded, whether a Plurality of Wives and Concubines may be still innocently enjoyed, in those Countries where the Christian Religion does not prevail? I answer, as it seems agreed by our Divines, that this Practice is not against the Law of Nature, or was any Crime in the Patriarchs; but is only sinful, as it is against a positive Command of our Saviour's; What Crime can this be in those, who have never been sufficiently appriz'd or acquainted with the Laws of Christianity? Where a positive Law is not sufficiently promulg'd, it would be hard to punish the Transgression of it, when it is acknowledged not to be contrary to the Law of Nature.

But it may be demanded, if a Christian Woman be made a Captive to some *Mahometan* Prince, who is pleas'd to take her into the Number of his Concubines, whether she may lawfully submit to his Embraces. (A Wife of the first Rank I suppose she can never be, as she is of a different Religion.) To this I think it may be answered, that whenever a Christian is left to her Choice, she will not, I presume, deliberately

deliberately act contrary to the Doctrines of the Gospel : But whether a Woman may not submit to the Ravisher, and choose to part with her Virginity rather than her Life, may be a moot Point. Again, if a Woman is content to share a Man, in a Country where the Law allows it, the greatest Injury seems to be to her self ; and whether she may not dispense with her own Interest in this Case, may be another Question : As to the rest of the Wives and Concubines, if they are of the same Belief with the Husband, no Injury is done to any of them, who never contracted for, or ever expected an entire Man to themselves, and have never been acquainted with Christianity, which, it will be granted, is the only Institution at this Day, that positively prohibits a Plurality of Wives and Concubines. But I leave the farther Discussion of these Points to our Casuists, whose proper Province it is.





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